

**NOMINATIONS OF GEORGE W. FORESMAN AND
TRACY A. HENKE**

HEARING

BEFORE THE

**COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON THE

**NOMINATIONS OF GEORGE W. FORESMAN TO BE UNDER SECRETARY
FOR PREPAREDNESS, U.S. DEPARTMENT OF HOMELAND SECURITY,
AND TRACY A. HENKE TO BE EXECUTIVE DIRECTOR, OFFICE OF
STATE AND LOCAL GOVERNMENT COORDINATION AND PREPARED-
NESS, U.S. DEPARTMENT OF HOMELAND SECURITY**

DECEMBER 8, 2005

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NOMINATIONS OF GEORGE W. FORESMAN AND TRACY A. HENKE

THURSDAY, DECEMBER 8, 2005

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:32 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Lieberman, and Carper.

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will come to order.

Today, the Committee will consider nominations for two key positions at the Department of Homeland Security, George Foresman to be the Under Secretary for Preparedness, and Tracy Henke to be the Executive Director of the Office of State and Local Government Coordination and Preparedness.

The Preparedness Directorate at the Department is new. It is part of the organizational changes that resulted from the Secretary's second-stage review completed this summer. This directorate will consolidate the Department's existing preparedness efforts, including planning, training, conducting exercises, and awarding grants. In addition, this new directorate will include the U.S. Fire Administration, a Chief Medical Officer, an Assistant Secretary for Infrastructure Protection, and an Assistant Secretary for Cyber and Telecommunications Security.

According to Secretary Chertoff, this new directorate will remove partitions among functions critical to our Nation's preparedness for catastrophic events. While I agree with the general concept of consolidating preparedness resources, I am reserving judgment on whether FEMA's preparedness assets should be removed from its core response capabilities. Preparedness and response are two sides of the same coin, and separating these functions seems unwise to me.

The President's nominee, George Foresman, brings outstanding credentials to this new and challenging position. He is a highly respected veteran emergency management professional with more than 20 years of emergency preparedness experience, including his current position as Assistant to the Governor of Virginia for Commonwealth Preparedness. In addition to being Virginia's principal advisor and coordinator for homeland security and emergency response, he also serves as the Governor's cabinet-level liaison with

the military commands and installations throughout Virginia. Mr. Foresman has served at the national level as well. He was Vice Chairman of the Advisory Panel to Assess Domestic Response Capabilities Involving Terrorism, which was established by Congress in 1998 and completed its work in 2003.

The Office of State and Local Government Coordination and Preparedness is the Federal Government's lead agency responsible for preparing the Nation against terrorism by assisting States, local and tribal jurisdictions, and regional authorities. The office, now housed within the Directorate for Preparedness, provides a broad array of assistance to America's first responders through funding, coordinated training, equipment acquisition, and technical assistance.

One of the office's primary responsibilities is implementing the Homeland Security Presidential Directive Number 8, which charged the Department of Homeland Security with establishing a National Preparedness Goal. This effort brings together experts from Federal, State, and local governments as well as the private and nonprofit sectors to create an integrated system of preparedness. In addition, the office distributes billions of dollars in grants to the States and territories, as well as to firefighters, law enforcement, emergency medical responders, ports, transit authorities, and other homeland security stakeholders.

The Members of this Committee have worked tirelessly to strengthen the homeland security grant program and to include strong new accountability measures. It is my hope that Ms. Henke will pledge to work with the Committee to ensure the enactment of this legislation that is supported by 71 Senators. This legislation would stop the troubling and persistent decline in homeland security funding. It doubles the funds allocated according to the Secretary's assessment of risk, threat, and vulnerabilities, provides a meaningful baseline of funds to each State so that the Nation as a whole can achieve essential levels of preparedness, and holds State and local governments accountable for spending funds in ways that help to achieve specific preparedness goals.

Leading this office is an enormously important job. The nominee before us, Tracy Henke, has considerable relevant experience working effectively with State and local governments. I would note that the Committee has received letters recommending her from a number of organizations, including the National Association of State Fire Marshals, the Fraternal Order of Police, the National Sheriffs' Association, and the International Association of Fire Chiefs, and without objection, all of those letters will be included in the record, as well as the letters that have been received by the Committee in support of George Foresman.¹

Ms. Henke currently is a Deputy Associate Attorney General for the Department of Justice. Prior to joining the Justice Department, she served as a Senior Policy Advisor for Senator Bond, where she worked closely with firefighters and the law enforcement community at the State and local levels. She is also strongly recommended

¹The letters in support of Mr. Foresman and Ms. Henke appear in the Appendix on pages 200 through 222, respectively.

by former Attorney General John Ashcroft, who described her to me as a "faithful public servant, skillful and hard working."

I welcome both nominees to the Committee, and I look forward to hearing their testimony.

Senator Lieberman.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thank you, Madam Chairman. It strikes me that I should say that though the Senate may be in recess, under your leadership, this Committee is not.

Chairman COLLINS. We never rest.

Senator LIEBERMAN. Never rest, no. This is our second hearing of the day. Thanks for convening this one to consider these two nominees to two very important positions at the Department of Homeland Security, and I welcome both Mr. Foresman and Ms. Henke to this hearing.

As the Chairman has said, these are the first two nominations for positions in the Preparedness Directorate, which has been newly created by Secretary Chertoff's second-stage review. I must report that I personally asked the Secretary to hold off on his reorganization of DHS's emergency preparedness and response structure until this Committee completes its investigation into the lack of preparedness at all levels of government exposed by Hurricane Katrina.

The disarray surrounding that disaster has obviously shaken the confidence of a lot of people in our country and the capacity of our government to protect them. I am hopeful that our investigation, a hearing of which was held this morning, will produce recommendations that would be helpful to the Department of Homeland Security internal management structure. I have told the Secretary that this Committee may, therefore, write legislative changes after we have thoroughly reviewed the record and are confident we know everything about what went wrong during Hurricane Katrina.

Nonetheless, I am pleased that the President has nominated Mr. Foresman for the position of Under Secretary for Preparedness at DHS. He is an experienced emergency manager, has been a first responder, a leader in homeland security in Virginia, Vice Chair of the Gilmore Commission, and is widely respected in the emergency management community.

The Under Secretary for Preparedness will have a critical role to play helping our country prepare for all hazards, including everything from the next terrorist attack to the next major hurricane or other natural disaster.

Earlier this week, as I am sure most of us saw, the 9/11 Public Discourse Project, formerly the 9/11 Commission, issued its final report card on our Nation's lack of preparedness as they saw it. Some of the grades, I thought, were fair. Some of them, I thought, were not fair. I thought some of the most significant accomplishments in which the Chairman and I, and Members of our Committee as well as the Senate and the House, had a lot to do with, I am proud to say, were not as highly noted. These accomplishments were, in fact, the top two recommendations of the 9/11 Commission, which was the creation of the Director of National Intel-

ligence and the National Counterterrorism Center, which in the Commission's own estimate were functioning well.

But the Commission does in other regards give us a clear message that we have not done enough yet, not as much as we should, to keep the American people as safe as they deserve to be. If confirmed, Mr. Foresman will obviously be in a position to address some of the outstanding problems the Public Discourse Project identified. Top among them, I would say, is the inability of our Nation's first responders to talk to one another across jurisdictional and disciplinary lines, and in this regard, I am pleased to note that under Mr. Foresman's leadership, Virginia was one of the first States to develop a strategic plan for interoperability, although obstacles, including inadequate and inconsistent funding, still remain as they do in most States.

Mr. Foresman, if you are confirmed, you will be in a position to forge a national strategy to achieve interoperability, strengthen Federal leadership, and provide sufficient funding, all of which are components of legislation which Senator Collins and I have offered and which now awaits action on the Senate floor, after having been reported out of Committee.

Madam Chairman, the Under Secretary for Preparedness and the Director of the Office of State and Local Coordination and Preparedness will also have the opportunity to address homeland funding. While debate has focused on the funding formula for homeland security grants, less attention has been paid to the fact that funding for first responders has, in the last 3 years, been dramatically reduced. That is unacceptable, and I hope we can work together to turn it around.

Finally, I want to welcome Ms. Henke, thank her for her years of public service, and just express publicly some concerns that I have about your nomination. Those are allegations that while you were at the Department of Justice, some of the actions that you took there in the administration of your office may have undermined the office's reputation for objectivity and independence.

In one incident earlier this year, the allegations are that you demanded that the Bureau of Justice Statistics delete from a press release¹ information about significant racial disparities in the treatment of motorists stopped by police, that you insisted over repeated objections from the director of the office—and in fact, the release was never issued because he decided that it was misleading in the form that you ordered him to release it. Soon after, this man, whose name was Larry Greenfeld, who had been a civil servant for 23 years, was told without explanation that he was being dismissed from his position. I hope today you will take this opportunity to address the questions that I, and others, have about your involvement in this episode.

I must say that my concerns occur in the context of recent disclosures that the Department of Justice political appointees overruled career staff in sensitive cases involving minority rights. In August, a team of lawyers and analysts at the Civil Rights Division recommended rejecting a Georgia voter identification law because it was likely to discriminate against African American voters, but

¹ The press release appears in the Appendix on page 198.

they were overruled the next day by political appointees. And then this month, we learned that top Department of Justice officials had overruled a unanimous determination by civil rights staff at the Department that a Texas redistricting plan violated the Civil Rights Act.

In this context, I am concerned that the considerable discretion that Congress has given the Department in the administration of homeland security grants will be exercised, if you are confirmed, in a fair and transparent manner. I hope that you will find it possible to give the Committee your assurances in that respect today.

Madam Chairman, if confirmed, these two nominees will have to work closely with our nation's first responders, the private sector, and State and local officials to assure that we do a much better job of preparing for whatever may come.

I thank you for holding the hearing, and I look forward to the witnesses' testimony. Thank you very much.

Chairman COLLINS. Thank you.

We are very pleased to be joined by the distinguished Senator from Delaware. I know he is often burning to share his views, so before calling on Congresswoman Emerson, I want to give the distinguished Senator a chance to make any opening comments he would like.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. I just want to say to our witnesses, yesterday was Senator Collins' birthday—

Chairman COLLINS. That wasn't a burning comment.

Senator CARPER. And I was unable to reach her to wish her in person a happy birthday, but I have to say, she is looking great for 30, and we are honored to serve under her leadership, despite her youth. Belated happy birthday.

It is always good to be with my friend, Senator Lieberman. He and I were both over in the Middle East about the same time.

I look forward to hearing from our witnesses. They are going to pull me out of here in a little bit, but I look forward to hearing you, and my staff is going to monitor everything else that takes place. Thank you very much.

Senator LIEBERMAN. I know Senator Carper knows this, but in case he doesn't, my birthday is February 24. [Laughter.]

Chairman COLLINS. I am writing it down. [Laughter.]

I am very pleased to welcome to the Committee Congresswoman Jo Ann Emerson, who is here to introduce one of our nominees today. We very much appreciate your coming over to this side of the Capitol, particularly since I know the House is in session, and we are very pleased to hear your comments. Thank you for being here.

STATEMENT OF HON. JO ANN EMERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Ms. EMERSON. Thank you, Madam Chairman, Senator Lieberman, and Senator Carper. You will have to forgive me because we are in a series of votes right now, and fortunately, I have about a 15-minute window. But I am honored to be here, and I do want to thank you for the opportunity to speak and introduce to you Ms.

Tracy Henke as she is considered by your Committee for the position of Executive Director of the Office of State and Local Government Coordination and Preparedness.

As a member of the Homeland Security Subcommittee on Appropriations, I am very pleased that we are filling these spots, I want to mention. But we should have only the highest standards for this position at the Department of Homeland Security, and Tracy Henke certainly meets these high standards.

I have long known Tracy to be a dedicated, hard working, and extremely intelligent public servant. She shares your commitment and shares my commitment to enabling first responders at all levels of government to be prepared, well integrated, and cohesive in their response to any emergency. In her illustrious service to her fellow citizens, she has not yet encountered a challenge that she has not been able to meet. She is also intelligent, personable, flexible, and thorough. All of these great qualities have served her well throughout her career, and they would also be a great boon to our Nation and to our national mission of homeland security.

As Deputy Associate Attorney General and Acting Assistant Attorney General at the Department of Justice, Ms. Henke has repeatedly demonstrated her regard for the law and her enthusiasm for law enforcement. She has guided programs of national significance, such as the Amber Alert program, in her efforts to make our Nation safer for our citizens.

In addition to her extensive legal credentials, Tracy possesses a significant public policy background from her years of service as a senior staff member in the U.S. Senate, and I think she is able to approach decisions from both policy and legal perspectives, which I believe, is an invaluable combination. Also, she is familiar with the separate homeland security challenges faced in both rural and urban parts of the country.

Ms. Henke's qualifications for this position are very clear from simply reviewing her resume, and we are certain to hear a great deal more in her testimony before the Committee today.

But today is also an opportunity for you to see Tracy Henke and see in Tracy Henke what I know very well. She has sincere enthusiasm for her work, her stalwart patriotism, and her rare ability to work with people regardless of any difference between them. She is a leader, by example, because her character rings true.

I welcome the Committee's consideration of Ms. Henke and the beginning of her service in this new capacity to the benefit of every American and the safety and security of our Nation. I am very honored to introduce to you Ms. Tracy Henke.

Chairman COLLINS. Thank you very much, Representative Emerson. I appreciate your endorsement of the nominee. I know you do need to leave, and I am pleased to excuse you at this time.

Ms. EMERSON. Thank you, Madam Chairman.

Chairman COLLINS. For the benefit of my colleagues, I also want to note that Senator Warner, who is a Member of this Committee, has submitted statements in support of both Mr. Foresman and Ms. Henke. Senators Bond and Talent have submitted statements in support of Ms. Henke's nomination, and Senator Allen has sub-

mitted a statement in support of Mr. Foresman. All of those statements will be included in the record.¹

Both nominees have filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and had their financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made a part of the hearing record with the exception of the financial data, which are on file and available for public inspection in the Committee's office.

Our Committee's rules require that all witnesses at nomination hearings give their testimony under oath, so would you please both stand and raise your right hand.

Do you swear that the testimony you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. FORESMAN. I do.

Ms. HENKE. I do.

Chairman COLLINS. Thank you.

Mr. Foresman, you may proceed with your statement.

TESTIMONY OF GEORGE W. FORESMAN² TO BE UNDER SECRETARY FOR PREPAREDNESS, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. FORESMAN. Thank you, Chairman Collins, Senator Lieberman, Senator Carper. Thank you for the opportunity to appear before you today to discuss my qualifications to serve as the Under Secretary for Preparedness at the U.S. Department of Homeland Security.

I truly believe that there is no higher honor than serving the citizens of America in positions of responsibility and public trust. I also want to extend my deepest thanks and appreciation to President Bush and to Secretary of Homeland Security Michael Chertoff for their confidence, as evidenced by this nomination. I am humbled simply by the nomination and recognize the enormous responsibilities that will be entrusted upon me if it is the will of the U.S. Senate to confirm me. I do not take lightly the expectations of me by President Bush, Secretary Chertoff, the U.S. Congress, and most importantly, the citizens of our great Nation.

Let me begin by acknowledging my immediate family who could not be with me today. My wife and children are busy preparing lists and other things for a special visitor who is expected at our house in about 17 days. Now, in the eyes of a 3- and 5-year-old, Daddy's day before the U.S. Senate, while important, pales in comparison to getting the list just right.

I am fortunate to have a partner in marriage whose prayers, sensibility, and tremendous support have allowed me to be a servant of the people for my entire professional career. She believes in me, she believes in the ideal of public service, and is an all-important

¹The prepared statements of Senators Warner, Bond, Talent and Allen appear in the Appendix on pages 23 through 31, respectively.

²The prepared statement of Mr. Foresman appears in the Appendix on page 35.

The biographical information of Mr. Foresman appears in the Appendix on page 37.

The pre-hearing questions for Mr. Foresman appear in the Appendix on page 44.

The post-hearing questions for Mr. Foresman appear in the Appendix on page 114.

anchor and the most important anchor in my life that keeps me from drifting.

Public service is sometimes said to represent sacrifice. While there are sacrifices, I would offer there is no greater calling or honor for each of us as Americans. My father and mother instilled in my three brothers and me a deep and unwavering spirit of public service. My parents were phenomenal role models. They underscored each and every day that our most important duties in life are to God, family, and our great Nation. Both are no longer living, but our family keeps their spirit with us in how we conduct our own lives each and every day.

My oldest brother has just returned from a second tour of duty in the Middle East as an Army officer. One has returned from the Gulf Coast where, as a Coast Guard employee, he assisted local governments distribute critical relief supplies after Katrina. And my third brother today is pulling duty as an officer in a fire department in Western Virginia. We are proud of each other and our respective roles to make America, its communities, and our citizens safer and more secure.

Like my brothers, every day, thousands of men and women across America go to work in the public and private sector with jobs critical to the safety and security of communities, States, the Nation, and businesses. They help us manage the risks inherent in a Nation that is the centerpiece of a global economy and the beacon of democracy around the globe. Their work provides comfort and confidence to ordinary citizens and customers that someone is working every day to keep them safe and to meet their needs. It is important work and it is preparedness. Preparedness is not and cannot simply be a function of government or elements of the private sector. It must be the culture in a culture of government, business, and society.

I would offer that we are at a rare crossroads in the history of this great Nation, where the hatred of enemies has combined with the ferocity of Mother Nature to underscore the importance for disciplines, professions, levels of government, and our citizens to do their part to better prepare for emergencies and disasters of all kinds, including terrorism. The tragic attacks of September 11 and the widespread devastation from Katrina have provided searing images of destruction seen around the globe and felt in some way by every American. These drive us to be better prepared.

But we should also be reminded that thousands of crisis events are threatened or will occur today and every day across America, and most will require limited response and are not likely to receive widespread attention. However, to the people affected, many of these will represent the greatest calamity of a lifetime. These more limited events also drive us as a Nation to be better prepared.

But wanting to be better prepared and actually doing it remains a challenge. Differing perspectives on how to best make advancements, limited resources, and the necessity of addressing the crisis of the moment have the potential to cause us to lose sight of the ultimate goal of enhancing preparedness. Two things are clear from more than 22 years of experience. First, I have not met anyone, anyone in America, who does not share a desire for a safer and

more secure America. Second, we must provide a better structure for synchronizing the Nation's preparedness efforts.

Our greatest challenge also is our greatest opportunity. We have a greater ability today than ever before to strengthen our systems and processes so that irrespective of the cause, size, location, or scope of a crisis, we improve our levels of preparedness. A strong focus on preparedness will allow us to better manage the risks that we face each and every day in our lives. Preparedness is that continuum of how we deter, prevent, respond to, and recover from the full range of hazards and risks as government, as our private sector, and as citizens.

Those who are threatened or become victims of an emergency or disaster, irrespective of the cause, expect that the structure, strategy, management, and leadership of all of the organizations and people responsible for managing risk will operate in a harmonized and a synchronized manner. Our collective responsibility in unity is to ensure that we adhere to the opportunity, to make sure that we achieve this harmonization, while at the same time helping ordinary citizens become a stronger part of America's preparedness culture.

Based on my more than 20 years of public service in wide-ranging front-line and executive-level experience at the local, State, and national levels, I believe that this is our moment in time and our moment in the history of the United States to make unprecedented advancements in our Nation's preparedness. I hope I am given the opportunity to contribute to these advancements as the Under Secretary for Preparedness. I thank you very much for the courtesy of this hearing, and I look forward to your questions.

Chairman COLLINS. Thank you. Ms. Henke.

TESTIMONY OF TRACY A. HENKE¹ TO BE EXECUTIVE DIRECTOR, OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS, U.S. DEPARTMENT OF HOMELAND SECURITY

Ms. HENKE. Thank you, Chairman Collins, Senator Lieberman, and Senator Carper. It is a pleasure to be here today.

I want to first say thank you to the President for the confidence that he has shown in me by nominating me as the Executive Director for the Office of State and Local Domestic Preparedness and Coordination—if I could even get the office straight. With the reorganization—it has changed on me. In addition, I would also like to take the opportunity to thank Secretary Chertoff for the confidence and trust that he has also shown in me. I have had the opportunity to know the Secretary for several years now, and if confirmed, I look forward to being part of his team at DHS.

I also thank Congresswoman Emerson, and I know that Congressman Cleaver also wanted to be here, but I am certain the votes on the House side have interrupted his transportation and his appearance here today. I want to thank Congresswoman Emerson, though, for her kind words, her support, and her friendship.

¹ The prepared statement of Ms. Henke appears in the Appendix on page 127.

The biographical information of Ms. Henke appears in the Appendix on page 129.

The pre-hearing questions for Ms. Henke appear in the Appendix on page 136.

The post-hearing questions for Ms. Henke appear in the Appendix on page 172.

Additionally, I want to thank Senators Bond, Talent, and Warner. They couldn't be here today, but throughout the years, they have been strong advocates and supporters of me, and for that, I am grateful. I am blessed to have known, as well as to have worked with, all these great public servants. I am grateful for their mentoring and, more importantly, their friendship.

In addition, I would be remiss if I didn't take the opportunity to thank my family and my friends, thank them for their support, their guidance, their love, and, sometimes most importantly, their patience.

With September 11, Hurricanes Katrina, Rita, and Wilma, as well as other events from around the world, our national awareness of threats, terrorist threats, natural disasters, and other events has sharpened. As a result, all of us, especially those involved directly or indirectly in public safety, understand our collective responsibility to work to prevent but also to prepare and respond to those threats, as well as our duty to build a safer and more secure world.

Throughout my years in public service, but specifically at the Department of Justice, I have been honored, but more importantly, grateful for the opportunities to support, to serve, and to partner with the public safety community, individuals who are on the front lines every single day, individuals who are making a difference.

Working on issues such as September 11, Katrina, body armor, DNA, Medal of Valor, and countless others, I have been reminded and shown that our Nation's first responders put themselves—intentionally put themselves in positions where they will be called upon to show their courage, their dedication, and their selflessness every single day. Men and women in public safety have a perfect sense of the dangers they might face. Yet despite that, they raise their right hand, swear the oath, and they take the job anyway.

If confirmed, I hope to be given the opportunity to raise my right hand, to swear the oath, and to continue the opportunity to serve with and for, as well as support and partner with the tremendous public safety community serving and protecting all of us and this great Nation.

If confirmed, I commit to continuing the effort to build partnerships at and across all levels of government, with the private sector, and with everyday citizens as we work to provide and improve upon the capabilities necessary to better prepare and protect America. If confirmed, I commit to listening to and working with the first responder community, local, State, and tribal leaders, and all stakeholders, as we work toward the common goal of getting the best value and return for our homeland security investments.

If confirmed, I commit to working on improving the preparedness of citizens across the country, knowing that an alert, informed, and knowledgeable public makes a tremendous difference. If confirmed, I commit to working with the Congress and others in the Administration to ensure a coordinated and informed effort to assist States, communities, and our Nation's first responders better prevent, prepare, and if need be, respond and recover from whatever hazards we might confront. If confirmed, I commit my energies to making a difference in this Nation's quest for preparedness.

Thank you for the opportunity to be here today.

Chairman COLLINS. Thank you. I am going to start my questioning with the standard questions that we ask of all nominees. First, is there anything in your background that you are aware of that might present a conflict of interest with the duties of the office to which you have been nominated? Mr. Foresman.

Mr. FORESMAN. No, ma'am.

Chairman COLLINS. Ms. Henke.

Ms. HENKE. No.

Chairman COLLINS. Second, do you know of anything personal or otherwise that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. FORESMAN. I do not.

Ms. HENKE. No.

Chairman COLLINS. And finally, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of Congress if you are confirmed? Mr. Foresman.

Mr. FORESMAN. Yes, ma'am.

Chairman COLLINS. Ms. Henke.

Ms. HENKE. Yes, Senator.

Chairman COLLINS. We will now start a round of questions limited to 6 minutes each for the first round.

Mr. Foresman, in announcing the results of the second-stage review, Secretary Chertoff stated that we "are not where we need to be as a Nation in the area of preparedness." While certainly the preparation for and response to Hurricane Katrina only underscores that fact, you have been an emergency management official at the State level. You have worked closely with Federal officials. What, in your judgment, went wrong with Hurricane Katrina in terms of preparedness?

Mr. FORESMAN. Senator, thank you for the question. I do not have the specific level of first-hand knowledge in terms of the decisions as they were made at the local, State, or Federal level with regard to Hurricane Katrina. As we look at Virginia's perspective in the aftermath of Hurricane Isabel several years ago, preparedness must be a shared vision of what is it that different organizations are going to do in advance of a potential crisis event to be prepared to prevent, deter, and to respond and recover, and historically, what we have found in Virginia is shortfalls with regard to preparedness simply because organizations have not had a shared vision of what is it that we need to do to be stronger and more resilient in terms of our ability to deal with emergencies and disasters.

Chairman COLLINS. As a State official, what has been your biggest frustration in working with the Department of Homeland Security?

Mr. FORESMAN. Well, Senator, having watched the evolution of the Department of Homeland Security, I would say as a consumer out there that my first point is the organization continues to mature, and it is nurtured every day, and it is certainly a much stronger and better organization in terms of my interaction with them as a State official than when they were created. That is the

natural evolution of when you would amalgamate 22 Federal agencies and 180,000 employees. That is an organizational issue.

But I think, clearly, the big issue from my State perspective is we have got to make sure that there is a common identity within the Department, that there is a common direction forward, and I think, frankly, there are many components of DHS as well as the entire Federal family that work with States and communities on preparedness planning, training, and exercising—FEMA, Coast Guard, Secret Service, Health and Human Services, DOD. I think the biggest frustration with DHS is the biggest frustration that we see across our Federal interagency, is an inconsistent vision of what is preparedness and how do we go about strengthening preparedness.

Chairman COLLINS. Thank you. Ms. Henke, there has been considerable controversy over actions that you took with regard to a Bureau of Justice Statistics report entitled, "Contacts between Police and the Public: Findings from the 2002 National Survey."¹ According to information compiled by the Committee staff, you edited a proposed press release in a way that would have taken out specific information showing some disparities in treatment by police. First of all, please explain why you made those edits.

Ms. HENKE. Of course. I thank you for the question, as well. Editing press releases is a regular part of the job of the principal deputy or the Assistant Attorney General or most leaders in the different components, I am certain not just at the Department of Justice, but also throughout other agencies, as well as when I worked in the Senate. And so it was something that I am very used to doing.

The draft press release was potentially edited by several people before it even reached my desk, and when it reached my desk, it was edited by my deputy, who suggested some changes to the draft press release, which I concurred with, so therefore I take ownership of those changes.

The edit that was made was—the reason for the edit was because it didn't accurately portray the information in the underlying report. As was pointed out, the report itself is contacts with police, and there are hundreds upon hundreds of statistics that could have been pulled from that report. But in this case, they tried to condense it down to a press release that is a page or two long, and so you can't get all the information in there.

The sentences that were proposed to be stricken that I concurred with were misleading. The sentences did say that blacks and Hispanics were more likely to be searched once pulled over. The next sentence in the report itself, however, says that you cannot conclude that race is the factor. You can't conclude that race is the factor because these numbers didn't take into account behavior of the individuals that were pulled over. It didn't take into account potentially demographics of the areas. So the report itself says, you cannot conclude that race was the factor in the search.

In addition to that, another fact, for instance, that was not in the press release is that over 90 percent of the individuals who were

¹ Report entitled, "Contacts between Police and the Public: Findings from the 2002 National Survey," appears in the Appendix on page 223.

surveyed for this document said that the actions of the police were appropriate. That also includes 90 percent of the people that were searched concluded that the actions of the police were appropriate.

So the sentences in the press release were misleading. You can't put in—the press release shouldn't contain every statistic in the report, and so, therefore, in conversations with the deputy and then in conversations with the Director of the Bureau of Justice Statistics, it was determined, and I did make a decision, that those sentences should be stricken and that the press release could go ahead and be issued.¹

Mr. Greenfeld had some disagreement with that, and it was a discussion that we had that more than 70 percent of the Bureau of Justice Statistics reports don't have press releases ever issued. In addition to that, the document is available online unedited and was distributed to over 600 media outlets.

Chairman COLLINS. Did you make any changes in the underlying report?

Ms. HENKE. Absolutely not.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thanks, Madam Chairman. I'm going to continue the line of questioning because as I said in my opening statement, I was concerned both by the news reports of this incident and then by what my staff informed me after the staff interview.

I know you have said you wanted removed from the release the findings of racial disparity in the treatment of motorists because the report could not explain the reasons for the racial disparity, but you also wanted the release to include a finding that there were no racial disparities in the rate at which motorists were stopped. Can you explain the distinction between those two?

Ms. HENKE. Actually, it wasn't a statistic that I asked to be inserted. That statistic that you reference was part of the press release prepared by the Bureau of Justice Statistics, not a statistic that I asked to be added.

Senator LIEBERMAN. So you don't see any inconsistency in including the one but excluding the other?

Ms. HENKE. Considering that the report, once again, was available online, was distributed to over 600 media outlets, and that in the highlights of the report itself, concluded the statistic that you are currently referencing, it did not include the statistic that was stricken from the report. So I didn't necessarily view it as being inconsistent because even in the highlights of the actual report, it wasn't included.

Senator LIEBERMAN. The news release that Mr. Greenfeld's office drafted would have reported that the police searched white motorists 3.5 percent of the time, but black motorists more than 10 percent of the time and Hispanic motorists more than 11 percent of the time. It also describes how police were approximately three times more likely to use force or threaten to use force against Hispanics and blacks than against whites that they had stopped.

My question really is to explain to me why you thought that those statistical findings, that is the 3.5 percent compared to the

¹ The press release appears in the Appendix on page 198.

10 and 11 percent, were not important or newsworthy and, therefore, should not have been included in the release.

Ms. HENKE. Oh, it is not that I don't consider them important, sir. They are included in the report, and the report which once again was distributed to over 600 media outlets and available online for all to see. The Bureau of Justice Statistics website gets over 20,000 hits a day, on average, and so that information is readily available. And once again, the majority of the Bureau of Justice Statistics reports do not have press releases associated with them.

There is additional statistics in there that, once again, help complete or can help complete the picture a little bit, and once again, it goes back to, for instance, the fact that 90 percent of those, including those that were searched, whites, blacks, and Hispanics, believed that the actions of the police were appropriate. That information wasn't in the press release, either.

And so having the entire information available, and once again, distributed to over 600 media outlets and available online, the information is readily available and it is important.

Senator LIEBERMAN. Let me ask this question so I have clarity on this myself. Do I understand correctly that you argued for a release to say that no significant racial disparities existed among individuals stopped by police?

Ms. HENKE. No.

Senator LIEBERMAN. You did not argue for that affirmatively—

Ms. HENKE. Absolutely not.

Senator LIEBERMAN [continuing]. But you wanted to take out the contrary conclusion, is that right?

Ms. HENKE. The only thing I concurred with, so I take ownership of the proposed change in the draft press release that was edited by my deputy in the office, I did not propose any addition. All I proposed and all I concurred with was the striking of the sentences that were misleading without full or without complete information, without, for instance, the next sentences in the report or the additional statistics.

Senator LIEBERMAN. Why not include the next sentences in the report and the additional statistics in the press release?

Ms. HENKE. It is one of those things, and maybe it is from my time on the Hill and the fact that press releases—we were always told once you get off—once it is past page one, it is unlikely that people are even going to look at it, so a press release is supposed to hit the highlights. The press release isn't—it is supposed to hit the highlights and not include absolutely everything. It can entice people maybe to read the report. So I didn't view this as necessarily needing more information. The information, once again, was readily available and was available for all the media and the general public to see in the report.

Senator LIEBERMAN. Let me ask you a different kind of question. Do you agree that the matter, the problem of racial profiling, is an important public issue?

Ms. HENKE. I do concur with that, and I know that the President in the State of the Union, I believe the State of the Union a year or two ago, also stated that it is an important issue and that it must end.

Senator LIEBERMAN. Let me ask you a couple of questions about another part of this. I will try to be quick. Thanks, Madam Chairman.

A few weeks after your disagreement with Mr. Greenfeld, as you know, he was called into the office of an Associate Attorney General Robert McCallum to discuss the incident. Actually, stop me if you disagree with anything I am saying.

Ms. HENKE. I have been informed. I was not informed that meeting was taking place—

Senator LIEBERMAN. You didn't know about it, but you know now?

Ms. HENKE. Yes.

Senator LIEBERMAN. A few weeks later, Mr. Greenfeld was summoned to the White House Personnel Office, where he was informed that he was going to be relieved of his position as Director of the Bureau of Justice Systems.

Ms. HENKE. I was informed of that after the fact.

Senator LIEBERMAN [continuing]. Of that afterward.

Ms. HENKE. Yes.

Senator LIEBERMAN. And this is my point. In responding to the Committee's pre-hearing questions and during your staff interview, you said that you had no role in, knowledge of, or opinion about the decision to remove Mr. Greenfeld after 23 years with the Bureau of Justice Systems, and I guess the record shows that he consistently got outstanding evaluations through all the administrations he had served, both Democrat and Republican. So the question I have is, since the Director of the Bureau of Justice Systems, Mr. Greenfeld, reports to the Assistant Attorney General for the Office of Justice Programs and you were Acting Assistant Attorney General from January to June of this year, it is surprising that you were not consulted or notified that the director of an agency for which you were responsible was about to be removed. How do you explain that?

Ms. HENKE. I am not necessarily surprised by that. Mr. Greenfeld was a career public servant. Mr. Greenfeld became a Presidentially appointed, Senate-confirmed individual in 2001 or 2002. He chose to take a political appointment, Presidentially appointed, Senate-confirmed. As Acting Assistant Attorney General, I did not anticipate or expect consultation pertaining to other Presidentially appointed, Senate-confirmed individuals at the Office of Justice Programs. They serve at the pleasure of the President, and as a political appointee myself, I didn't anticipate or expect, once again, having any role in the hiring or conversations of his employment.

Senator LIEBERMAN. Do you know why he was told that he would be dismissed?

Ms. HENKE. I have not had any conversations. Other than receiving a notification that he was told, I have had no conversations with anyone pertaining to the reasons why.

Senator LIEBERMAN. A final question on this, Ms. Henke. In earlier discussions with the Committee staff, you mentioned an e-mail that was sent to Mr. McCallum, who I have just cited is associate Attorney General. I understand that the e-mail forwarded a message from Mr. Greenfeld related to your dispute over this press re-

lease. I trust you know, but if you don't, we have requested a copy of your e-mail to Mr. McCallum from the Justice Department.¹ Do you have a copy of the e-mail yourself?

Ms. HENKE. I am certain it is on my system, but I am confident that if the Committee is working with the Department's Legislative Affairs Office, that they will make a determination on its availability.

Senator LIEBERMAN. Have you looked at it lately?

Ms. HENKE. I have not, no.

Senator LIEBERMAN. You haven't. So it doesn't lead you to add anything more to the exchange we have just had about Mr. Greenfeld?

Ms. HENKE. I mean, the only thing that the e-mail did was forward—was just simply a forwarding of the communication exchange. There was no other information in it.

Senator LIEBERMAN. Then I would ask that, and I presume maybe in the process of your position in the Department you have to get approval, but I would formally ask that after this, you go back and ask if you can share the e-mail with all the Members of the Committee.

Ms. HENKE. I am happy to consult with the Department on that issue.

Senator LIEBERMAN. Thanks. Madam Chairman, I apologize for this. I am just going to wind this up with this general question. Obviously, the concern is if you are confirmed for the position for which you have now been nominated, which is a powerful position, giving out grants, I mean, to some extent, you oversaw activities like this in your earlier position, but usually with less discretion, and within formulas mandated by Congress, what can you say to us to assure us that you will conduct and carry out your responsibilities in a manner that is fair, transparent, independent, and nonpartisan?

Ms. HENKE. I can offer you my commitment today to doing just that, and I believe I have a track record of doing just that. If I may, once again, it was an editing of a press release that was never issued and a document that is available in its entirety, unedited, online. The information is important. I completely concur with that. And therefore, once again, it was made available. And I can assure you today, if confirmed, every single day that I am in the job, that I will act in a professional, impartial, and fair way and make certain that the Administration and the Department policies, as well as the direction by Congress and the law, is upheld.

Senator LIEBERMAN. Thank you. Thanks, Madam Chairman, for your indulgence in allowing me to complete that line of questioning.

Chairman COLLINS. I am happy to do so.

Mr. Foresman, one of the astounding facts that this Committee hears over and over again is that some 85 percent of our Nation's critical infrastructure is owned not by government, but by the private sector. How would you improve DHS's relationship with the private sector to strengthen the security of America's critical infrastructure?

¹ Copy of the e-mail appears in the Appendix on page 195.

Mr. FORESMAN. Senator, thank you for the question. I would offer that as we look at critical infrastructure, this has been an area that we paid particular attention to in Virginia even prior to September 11, given the potential of natural disaster impacts on critical infrastructure. But I think there are a couple of key lessons that we learned.

In kind of our visceral reactive state in post-September 11, I think there was a lot of focus on the physical protection of critical infrastructure and it was driven very much from a Federal-centric perspective. It is not right or wrong, it is just the simple reality of the environment that we were in in the post-September 11 environment. But I think that we have an opportunity to step back, if you will, and to engage with our private sector partners and to diffuse our critical infrastructure protection efforts to where we have more active roles with State Governments, local communities, stronger collaboration with the private sector, and frankly, what I would offer to you is critical infrastructure protection has got some tough policy issues. It has got some tough issues that are not easily understood.

And I think that we have now reached the level of maturity in terms of our national efforts post-September 11 whereby bringing the private sector and our State and local partners, our Federal agency partners to the table in maybe a little more aggressive way than has been done before. Certainly, we have seen this in Virginia. I think we can advance our infrastructure protection efforts to the next level.

The other piece that I would offer is there is great incentive for the private sector to protect that critical infrastructure. Customers demand service from their businesses. Insurance companies are looking to minimize exposure, a whole variety of issues. I will tell you, my experience in Virginia is there is no weakness in the commitment of the private sector to protect that critical infrastructure.

Chairman COLLINS. Thank you. Ms. Henke, if confirmed, you will oversee the distribution of the Law Enforcement Terrorism Prevention program. We have heard a lot of discussion about homeland security grant programs and how the funding should be allocated. This is a program that gets far less attention and yet is vitally important. If we can disrupt, detect, and deter terrorist attacks before they occur, that obviously should be our highest priority. And indeed, in recent years, this program has distributed more than \$400 million a year for the purpose of preventing a terrorist attack.

The 9/11 Commission found that the terrorists conducted their activities, trained, transited, and hid in places like Stone Mountain, Georgia, Norman, Oklahoma, and Portland, Maine. We see the clear trend again with the London bombings, where the terrorists planned their attacks well away from the target in London, but rather in a small town called Leeds.

Despite all this evidence, the clear bias within the Department of Homeland Security, when given discretion on how to distribute the Law Enforcement Terrorism Prevention funds, is toward large cities. Doesn't this strategy ignore what we have learned from where the September 11 terrorists trained? Doesn't it ignore the plotting that was done in Leeds? What would be your approach to

distributing the funds that may well lead to the disruption or prevention of a terrorist attack?

Ms. HENKE. Senator, as you are aware, prevention is one of the core missions, one of the four main missions of the Department of Homeland Security, and it is extremely important. It is my hope that we would be able to prevent, instead of having to respond and recover from, an attack.

It is my understanding that the Law Enforcement Terrorism Prevention program at this office, like most of the grant funding that this office distributes, is provided to the States and then the States are required to work with the localities, whether rural or urban, suburban, because they know, as you know and as I know, that for preparedness, there is no arbitrary boundaries. We need to be prepared as a Nation. That means rural, suburban, and urban.

And so what I can commit to you, Senator, is that, if confirmed, if there is a better way to distribute resources, I commit to looking at that and working to ensure that our homeland security resources are providing us the best prevention as well as preparedness that we can get.

Chairman COLLINS. There has also been extensive discussion in recent months on the need for increased border security. One cost-effective way that I hear about to increase border security is to use State and local law enforcement officials as a force multiplier. For a time, the Department did allow reimbursement for State and local law enforcement activities that assisted Federal officials in securing the border. That has changed, however, in recent months. Do you believe that it should be an allowable use of the Law Enforcement Terrorism Prevention program funding for reimbursement of support of border security activities?

Ms. HENKE. Chairman, it is my understanding that the office has reviewed this, and in the past, I know that funding was available under the Law Enforcement Terrorism Prevention program for Code Orange, if there was a Code Orange, that entities were allowed to have reimbursement. And then under the Urban Area Security Initiative, some areas that were high-risk, that had Code Yellow or Orange, were able to use funds to reimburse for State and local costs pertaining to the border. And I do believe I recall seeing that the Department has reviewed this and is working to ensure that there is some allowable cost for reimbursement for border security for State and locals.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thank you, Madam Chairman.

Mr. Foresman, I appreciated, in your written responses to the Committee, that you talked a lot about the importance of planning as a function of preparedness. You pointed out that a good plan repays the investment in time and effort in its development and rehearsal by shortening the time required to gain control over an incident and clarifying roles, responsibilities, tasks, and resources before an incident.

This morning at a hearing in this room, we heard from three of the operational professionals of FEMA about their work in the days before and immediately after Hurricane Katrina hit landfall on the Gulf Coast. It spoke to a crying need for more training. It was a very informative hearing in a lot of ways. I certainly came out with

a better understanding of the extent of the deprivation, for one, the denial of adequate funding to FEMA personnel for training to prepare them adequately for a Katrina-type disaster, and particularly, this roster of reserves they have that they call on in a crisis who rarely get a chance to train.

So first question is, if you want to talk a little bit about the importance of planning and training? Two, do you believe that the Preparedness Directorate should work with FEMA to make sure that exercises, training, and response happen and are linked to one another?

Mr. FORESMAN. Senator, thank you. I would offer that, historically speaking over 22 years in Virginia, the plan is not necessarily as important as the process of planning because with that, you are able to bring people together to mutually understand the nature of the crisis or the hazard that they are reading themselves to deal with and then intuitively provides an element of training, just as you are doing the functional planning process, but planning is absolutely critical.

Now, one of the things that I would offer, Senator, is that we have got to get a greater degree of consistency in terms of how we go about planning. For instance, in Virginia, we are going to be working with FEMA on a day-to-day basis in terms of planning for natural disasters or other response and recovery activities. We may be working with the U.S. Coast Guard, planning for oil spills, the Nuclear Regulatory Commission on nuclear power plant incidents, and I think that one of the key factors that we see is the necessity not only within the Department, but across the entire Federal interagency, and frankly, across States and communities and the private sector, a much greater degree of consistency in terms of the road ahead. And the National Preparedness Goal and the National Incident Management System are two critical elements that will help us achieve that.

With regard to the issue of training, the one thing that I would offer is that we have a Reservist program in Virginia, individuals that we bring on board during emergencies and disasters similar to the Reservist program that FEMA has. All of us, I think, would agree that appropriate planning and training, or appropriate training and education for our personnel is critical. I would say that we also have to recognize that there is a great deal of training that occurs in a real-world event. And so we recognize that there is the necessity for classroom activity, but we also recognize there is value added from actually being out there and practicing what you need to practice on a day-to-day basis.

But Senator, let me offer this. FEMA is but one component of the Nation's preparedness efforts, albeit a very critical, and if not the most critical component, because of their responsibility for looking in an all-hazards approach. But FEMA, the Coast Guard, HHS, DOD, EPA, a host of Federal agencies, elements internal to the Department and external to the Department, we are going to have to make sure that we do a much stronger and better job in terms of our coordination for planning, our coordination on training and exercise activities, and I would just say everybody is going to have to be at the table to make us stronger.

Senator LIEBERMAN. Well said. Let me ask you a few questions about interoperability based on your experience in Virginia and what you know generally as you think about going forward. What would you say are shortcomings in the current system of funding with regard to communications interoperability of first responders?

Mr. FORESMAN. Senator, I think there are two critical issues. We do not have a consistent national definition of what are we talking about. Are we talking about interoperability, or are we talking about operability, or are we talking about the interoperability between disciplines, between levels of government? But it goes back to a conversation that you and I were fortunate enough to have in your office, and before we get to the technological and the funding solution, we need to decide who needs to talk to whom, when, and how, and that is good old-fashioned business rules in terms of how we want to do business on a day-to-day basis.

We have been fortunate, in Virginia, in the development of one of the first interoperability strategies in the Nation. Does it solve all the problems? Absolutely not, but it gives us a clear indicator of where we are going to spend our critical dollars, whether Federal, State, or local dollars toward solving interoperability issues. And frankly, the one thing I would tell you is having that strategy, it allows us to use it as a tool. We don't use Federal grant dollars for interoperability projects unless it is consistent with that strategy, and we have an executive committee that reviews those proposals.

Senator LIEBERMAN. Good for you. I am not going to hold you to this, but in a general sense, what is a reasonable time table for achieving a reasonable level of communications interoperability among first responders nationwide?

Mr. FORESMAN. Well, Senator, it is difficult to try to put a time frame on it. I come from the rural parts of Virginia where not only do the local governments own their own radio systems, the actual first responder organizations, and we are talking about thousands if not tens of thousands of systems across the country. I would be hard-pressed to give you an answer that had any modicum of accuracy, but please understand that having been a first responder in the early 1980s at an automobile accident in the middle of nowhere on the Interstate, driving an ambulance and not being able to talk to anybody and having people die is exceptionally frustrating. I have lived with interoperability, I understand interoperability, and I am committed to making sure that we work on interoperability.

Senator LIEBERMAN. Thank you. My time is up.

Chairman COLLINS. Thank you.

I do have some additional questions for both nominees, which I am going to submit for the record.

Senator Lieberman, do you have anything else you would like to ask at the hearing, or—

Senator LIEBERMAN. Just one quick question for Mr. Foresman, and this, though they haven't asked me, is on behalf of our two colleagues from California, who continue to ask Senator Collins and me to focus on San Francisco and the potential for an earthquake because we all hear that this is considered by natural disaster experts as one of their bigger fears, along with the two that tragically

have already happened, a terrorist attack on New York and the flooding of New Orleans.

I don't know whether you have been in a position to know whether the Department has existing plans with regard to responding to an earthquake in California, and if not, whether you would work with the State of California to conduct the kind of simulations, training, and planning exercises that we have just talked about.

Mr. FORESMAN. Senator, with regard to the specific plans on the shelves at the Department, I am not aware of the specifics, but I would offer to you that in the early 1990s when we were developing what was then the first Federal Response Plan and States and the Federal Government working together, that grew out of what was then FEMA's Catastrophic Incident Earthquake Plan, and so we know that we have the core principles. We have to be careful that we don't try to develop a plan for every hazard or every scenario, but rather, we develop the framework that is expandable, adaptable to the specific situations that would occur.

But I can say clearly, working with my counterparts from California over the years, the New Madrid fault, the L.A. basin, certainly San Francisco, those are the types of events that would occur with little or no warning. They would cause a widespread amount of devastation. And clearly, doing continuous planning, training, and exercise in preparation for those is absolutely critical. Preparedness is very much about progress, and we have got to continue to make progress every day in terms of continuously looking at all of the risks we face and manage them better.

Senator LIEBERMAN. Thank you both. Thank you, Madam Chairman.

Chairman COLLINS. Thank you.

I want to thank both nominees for appearing before the Committee today. Without objection, the record will be kept open until 5 p.m. tomorrow for the submission of any written questions or statements or other materials for the record.

This hearing is now adjourned.

[Whereupon, at 3:39 p.m., the Committee was adjourned.]

A P P E N D I X

STATEMENT OF SENATOR JOHN WARNER
BEFORE THE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE
NOMINATION OF GEORGE W. FORESMAN, NOMINEE FOR UNDER SECRETARY FOR
PREPAREDNESS OF THE DEPARTMENT OF HOMELAND SECURITY
DECEMBER 8, 2005

Madame Chairman and Senator Lieberman, I thank you for holding this confirmation hearing today.

I am pleased to have the opportunity to speak on behalf of George Foresman who has been nominated to serve as the first Under Secretary for Preparedness of the Department of Homeland Security.

Before proceeding to why I strongly support Mr. Foresman's nomination, I would like to touch on some of George's youth, which brings back memories of mine. George was born and raised in Lexington, Virginia, where he later attended the distinguished Virginia Military Institute (VMI). I share his fondness of Lexington having spent four years in Lexington as an undergraduate student at Washington and Lee University. We also embarked at an early stage of our lives in public service in similar capacities. I landed a job as a firefighter with the U.S. Department of Agriculture's forestry division, while George served as a volunteer firefighter in Lexington.

Subsequent to earning his Bachelor of Arts in history at the VMI in 1985, George continued his public service in the Commonwealth of Virginia with the Virginia Department of Emergency Management, where served for over fifteen years in a number of positions ranging from Disaster Recovery Grants Manager to Deputy Director of the Department.

Most recently, Mr. Foresman has served in the Office of the Governor of the Commonwealth of Virginia in two critical positions, especially following the tragic September 11th attacks. From 2002 to 2004, he served as the Deputy Assistant to the Governor for Commonwealth Preparedness. Since 2004, he has served as the Assistant to the Governor for Commonwealth Preparedness. As the principal state official responsible for emergency preparedness in the Commonwealth of Virginia, which borders the District of Columbia, George has served a member of the National Capital Region's Homeland Security Senior Policy Group for the past four and half years.

In recent congressional hearings that have examined the preparedness and response efforts to Hurricane Katrina, Members of Congress, the Administration, and the American Public, have paid more attention to the qualifications of emergency management officials, and rightfully so. Having over two decades of experience in emergency preparedness at the state and local levels in conjunction with federal agencies and officials, Mr. Foresman is highly qualified to serve as the first Under Secretary for Preparedness of the Department of Homeland Security.

Serving as the first Under Secretary for Preparedness will be a difficult but appropriate challenge for George given the complexity of the task coupled with his comprehensive experience and knowledge in this field. Unlike most nominees, he has the unique opportunity to start with a clean slate; however, the foundation that he will build as the first Under Secretary for Preparedness, will be critical in shaping the Nation's preparedness efforts for many years to come and ensuring the safety and well being of the American public.

Madame Chairman, obviously, Mr. Foresman is highly qualified to serve as the Under Secretary for Preparedness of the Department of Homeland Security. I support his nomination, and look forward to the Committee reporting out his nomination favorably.

STATEMENT OF SENATOR JOHN WARNER
BEFORE THE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE
ON THE NOMINATION OF TRACY A. HENKE
TO SERVE AS THE EXECUTIVE DIRECTOR OF THE OFFICE OF STATE AND LOCAL
GOVERNMENT COORDINATION AND PREPAREDNESS
DECEMBER 8, 2005

Madame Chairman and Senator Lieberman, I thank you for holding this confirmation hearing today. It is important to move the President's nominees expeditiously.

Today, I am pleased to speak on behalf of Tracy Henke who has been nominated to serve as the Executive Director of the Office of State and Local Government Coordination and Preparedness within the Department of Homeland Security.

Subsequent to earning her B.A. degree from the University of Missouri - Columbia, Tracy has served as a dedicated public servant for over a dozen years. In fact, Tracy began her Washington career in the office of my friend and former colleague, Senator John Danforth. After two positions in Senator Danforth's office, Ms. Henke continued her distinguished work by joining the Office of Senator Kit Bond, becoming one of his Senior Policy Advisors. In all, Ms. Henke spent almost a decade as a member of our Senate family and during that time I worked very closely with her on issues in the Environment and Public Works Committee where she very ably represented Senator Bond.

Since leaving the Senate, she has worked in several capacities for the U.S. Department of Justice. Most recently, she has served as Deputy Associate Attorney General. In these positions, Tracy continued to develop her relationships with the law enforcement community nationwide. This is evident in her numerous letters of support from various local and national law enforcement and first responder groups. These relationships will continue to serve her at DHS.

Having worked in the Senate and the Justice Department, Tracy has had the opportunity to gain an extensive knowledge of homeland security and law enforcement issues, the federal grant-making process, and numerous aspects of congressional affairs. Ms. Henke's background has provided her with the necessary skills to understand the complex missions of the Office of State and Local Government Coordination and Preparedness and she has demonstrated a keen understanding of the aims of the Office as it implements the National Preparedness Goals.

Madame Chairman, obviously, Ms. Henke is highly qualified to serve as Executive Director of the Office of State and Local Government Coordination and Preparedness. I support her nomination, and look forward to the Committee reporting out her nomination favorably and as soon as possible.

Statement of Christopher S. Bond

Senate Committee on Homeland Security and Governmental Affairs

Nomination of Tracy A. Henke to be Executive Director of the Office of State and Local Government Coordination and Preparedness, Department of Homeland Security.

December 8, 2005

Madam Chair and Senator Lieberman, thank you for your efforts to schedule this hearing to consider Tracy Henke for the post of Executive Director of the Office of State and Local Government Coordination and Preparedness.

I congratulate the President for the selection of this highly-qualified nominee.

This is an important responsibility requiring someone of Tracy's caliber to manage and I urge the Committee to give her fair consideration and approval so the Administration and the people may be served by her energy and talents.

I have known Tracy for over 11 years since the time she worked for my colleague Senator Danforth.

In 1994, she joined my staff and became a legislative Assistant and later my Senior Policy Advisor before moving on to the Department of Justice.

Tracy is a determined public servant with the high integrity that her rural beginnings instilled.

She is extraordinarily fond of her family and home community and conducted her daily business as if they were in the room watching - a very high standard.

Tracy always understood that the role of the Federal Government is to serve the people, not the other way around.

While she worked in the Senate, there was no job too big, too complex, or too annoying for Tracy to not eagerly and effectively respond.

She always demanded a great deal from herself as well as from those she managed.

Those who worked with her most and know her best remain her strongest supporters.

She is supported throughout our Missouri Congressional delegation without regard to party affiliation or background.

She is supported by all the major law enforcement organization with whom she has worked at Justice.

She has earned the deep respect and support for her inclusive, cooperative, and professional way of doing business on a bipartisan basis with her trademark candid and can-do approach.

Finally, she has long understood something that is most critical for a position of this nature and that is accountability.

She will not be the shrinking violet running for cover when things get tough and action is necessary.

The only finger I have ever seen her point was at herself.

Tracy will be there with the mayors, community leaders, responders, and state and federal officials demanding the job get done and settling for nothing short.

Said in a different way, she is a tolerant person except when it comes to mediocre performance.

Madam Chair and Senator Lieberman, she will get the job done and if you have questions or suggestions, she will not leave your doorstep until you are satisfied.

We worked together for years. She earned my trust and never let me down.

She is a hard-working, smart and experienced manager, but deep down, she is intensely conscientious.

Consequently, the high standards that others will demand of her will only be exceeded by her own.

I remain available for all members who may wish to discuss this nominee in detail.

Again, I thank the Committee and urge fair, favorable and speedy consideration.

Prepared Statement of Senator Jim Talent

December 8, 2005

Madam Chairman, it's an honor for me to express my strong support for the nomination of Ms. Tracy Henke to the position of Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

I have been acquainted with Ms. Henke, throughout her career in public service. She is a highly talented and motivated individual who has compiled an impressive record of experience with a wide range of local, state and federal government agencies.

As evidenced by her resume, Ms. Henke has extensive experience in the public sector. While serving as the Deputy Associate Attorney General and Acting Assistant Attorney General at the Department of Justice, she earned the support and respect of law enforcement, firefighters, and other first responders, many of whom echo my support for her nomination to this post.

Tracy Henke has an unqualified commitment to public service, and I am pleased to have the opportunity to endorse her nomination for the Office of State and Local Government Coordination and Preparedness. I look forward to casting my vote in favor of her confirmation and urge this Committee to swiftly confirm her nomination.

I thank the Chairman.

STATEMENT OF SENATOR GEORGE ALLEN

Good afternoon Chairman Collins, I would like to thank you for holding this hearing to consider the nomination of George Foresman of Powhatan, Virginia to be Under Secretary for Preparedness at the Department of Homeland Security. Mr. Foresman is dedicated and respected public servant who has served the Commonwealth of Virginia for many years. I have first hand knowledge of his ability from my time as Governor of the Commonwealth of Virginia. During my time as governor, Mr. Foresman served in the Virginia Department of Emergency Management. In this position he was responsible for protecting the citizens of the Commonwealth from terrorist attacks and natural disasters. In addition to working with George while Governor, I have had the opportunity to continue to work with him as Virginia has responded to the recommendations of the Base Realignment and Closure Commission (BRAC).

After the hurricanes devastated the gulf coast a new focus has been placed on the importance of preparedness. George has more than 20 years of experience in emergency management, law enforcement, fire and emergency medical service organizations ranging from operations to executive level leadership. Through his many years of experience, I am confident that George has the skill necessary to lead the office of preparedness to ensure that the nation is as well protected as Virginia.

Since 2002, George has served as Assistant to the Governor of Virginia on Commonwealth Preparedness. In this role, George played an instrumental role in Virginia's efforts during the Base Realignment and Closure (BRAC) process. George worked with me and my staff as well as the rest of the Virginia Congressional Delegation to make the best case for Virginia's military installations. His hard work and tireless efforts are well recognized across the Commonwealth and I appreciate all he has done to ensure that Virginia remains the military's number one choice and location to house military installations and missions. George is also the chief liaison between the Commonwealth and the White House, Congress, the U.S. Department of Homeland Security and other federal entities to coordinate policy and secure resources.

Prior to serving as Assistant to the Governor, Mr. Foresman served on the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction. This panel was established by Congress in 1999 to advise the President on improving preparedness for terrorism. Mr. Foresman oversaw an executive support team and research staff as they worked with public and private sector officials. This panel delivered five annual reports resulting in 144 recommendations that made significant adjustments in national policy. More than 125 of the recommendations have been adopted in part or whole.

George has also been nationally recognized for his expertise in emergency management. Mr. Foresman is also a prominent member of the Homeland Security Policy Institute Senior Fellows, which is a distinguished group of homeland security leaders with expertise in areas ranging from bioterrorism to critical infrastructure.

I am delighted that the president chose to nominate George to this important post, and I ask you, Madam Chairman, and the members of this Committee, to move as swiftly as possible towards his confirmation.

The Honorable Emanuel Cleaver, II

**Statement before the Senate Committee on Homeland Security and Governmental
Affairs**

**Nomination of Tracy A. Henke to Executive Director of the Office of State and
Local Government Coordination and Preparedness, Department of Homeland
Security**

December 8, 2005

Madam Chair and Senator Lieberman, I thank you for convening this hearing to consider the nomination of Tracy Henke to Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security, and I thank you for the opportunity to testify on her behalf.

I have always found Tracy to be an individual of outstanding character and integrity who has demonstrated a personal and professional record of leadership and a commitment to public service.

I had the pleasure of working with Tracy when I was Mayor Kansas City. At the time, she served as Senior Policy Advisor to Senator Bond. What struck me at the time about Tracy was her absolute dedication to the people of Missouri and working to ensure their well-being. Although we worked from opposite sides of the aisle, Tracy, in her role as an aide to the Senator, always looked beyond party labels to do what was right for our constituents. By working together, we were able to achieve great accomplishments for Kansas City and its people, including the development of Union Station, the Liberty Memorial to honor the veterans of the first World War, the construction of the Chouteau Bridge, and a variety of additional important initiatives. She earned my respect, trust and admiration.

More recently, I have had the opportunity to work with Tracy in her current capacity at the Department of Justice. And nothing had changed – she is still the consummate professional – talented, motivated, and dedicated to her mission.

I have no doubt that Tracy will approach her responsibilities as Executive Director in the same manner.

I also understand that Tracy has, during her tenure at the Department of Justice, developed important relationships with police, fire, and first responder organizations that will serve her well at the Office of State and Local Government Coordination and Preparedness. The fact that she has earned the respect and support of such organizations is further testament to Tracy's commitment to her responsibilities and to America's priorities.

I thank the Committee once again for this opportunity to testify on Tracy's nomination. I have no doubt that her prompt confirmation would benefit the Department of Homeland Security as well as the American people. I urge the Committee's speedy approval Ms. Henke's nomination, and am happy to answer any questions you may have.

Statement of
The Honorable George W. Foresman
Nominee for Under Secretary of Preparedness
United States Department of Homeland Security
Before the United States Senate
Committee on Homeland Security and Government Reform
December 8, 2005

Chairman Collins, Senator Liberman and Members of the Committee, thank you for the opportunity to appear before you today to discuss my qualifications to serve as Under Secretary for Preparedness at the United States Department of Homeland Security. There is no higher honor than serving the citizens of America in positions of responsibility and public trust.

I also want to extend my deepest thanks and appreciation to President George W. Bush and Secretary of Homeland Security Michael Chertoff for their confidence as evidenced by this nomination. I am humbled simply by the nomination and recognize the enormous responsibilities that will be entrusted to me if it is the will of the United States Senate to confirm me. I do not take lightly the expectations of me by President Bush, Secretary Chertoff, the United States Congress and, most importantly, the citizens of our great nation.

Let me begin by acknowledging my immediate family who could not be with me today. My wife and children are busy preparing lists and other things for a special visitor who is expected at our house in about seventeen days. In the eyes of a three and five year old daddy's day before the United States Senate, while important, pales in comparison to getting the list just right. I am fortunate to have a partner in marriage who's prayers, sensibility and tremendous support have allowed me to be a servant of the people. She believes in me, the ideal of public service and is the all-important anchor in my life that keeps me from drifting.

Public service is sometimes said to represent sacrifice. While there are sacrifices I would offer there is no greater calling or honor for each of us as Americans. My father and mother instilled in my three brothers and me, a deep and unwavering spirit of public service. My parents were phenomenal role models that underscored each and every day that our most important duties in life are to God, family and the nation. Though both are no longer living our family keeps their spirit with us in how we conduct our own lives. My oldest brother has just returned from a second tour of duty in the Middle East as an Army Officer, one has returned from the Gulf Coast where as a Coast Guard employee he assisted local governments distribute critical relief supplies after Katrina and my third brother is pulling duty as an officer in a fire department in Western Virginia. We are proud of each other and our respective roles to make America, its communities and our citizens safer and more secure.

Like my brothers, everyday thousands of men and women across America go to work in the public and private sector with jobs critical to the safety and security of communities, states, the nation and businesses. They help us manage the risks inherent in a nation that is the centerpiece of a global economy and the beacon of democracy around the World. Their work provides comfort and confidence to ordinary citizens and customers that someone is working everyday to keep them safe and meet their needs. It is important work. This work is preparedness.

Preparedness is not and cannot simply be a function of government or elements of the private sector. It must be the culture of government, business and society.

We are at a rare crossroads in the history of this great nation where the hatred of enemies have combined with the ferocity of mother nature to underscore the importance for disciplines, professions, levels of government and our citizens to do their part to better prepare for emergencies and disasters of all kinds, including terrorism. The tragic attacks of 9-11 and the widespread devastation from Katrina have provided searing images of destruction seen around the globe and felt in some way by nearly every American. They drive us to be better prepared.

We should also be reminded that thousands of crisis events will occur today and everyday across America and most will require a limited response and are not likely to receive widespread attention. However, to the people affected many of these will represent the greatest calamity they will face in a lifetime. These more limited events also drive us to be better prepared.

Wanting to be better prepared and actually doing it remains a challenge. Differing perspectives on how to best make advancements, limited resources and the necessity of addressing the crisis of the moment have the potential to cause us to lose sight of the ultimate goal of enhancing preparedness. Two things are clear from my experience. First, I have not met anyone who does not share a desire for a safer and more secure America. Secondly, we must provide a better structure for synchronizing the Nation's preparedness efforts.

Our greatest challenge is also our greatest opportunity. We have a greater ability today than every before to strengthen our systems and processes so that irrespective of the cause, size, location or scope of a crisis we improve our preparedness. A strong focus on preparedness will allow us to better manage the risks we face. Preparedness is that continuum of how we deter, prevent, respond to and recover from the full range of hazards and risks - as government, the private sector and as citizens. Those who are threatened or who become victims expect that the structure, strategy, management and leadership of those organizations and people involved with managing risk will operate in a harmonized and synchronized manner. Our collective responsibility and opportunity is to ensure this harmonization while at the same time helping ordinary citizens become a stronger part of America's preparedness culture.

Based on my more than twenty years of public service and wide ranging front line and executive level experience at the local, state and national levels, I believe that this is our moment in time and the history of the United States to make unprecedented advancements in our Nation's preparedness. I hope I am given the opportunity to contribute to these advancements as the Under Secretary for Preparedness.

Thank you and I am happy to answer your questions.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** George Williamson Foresman
2. **Position to which nominated:** Under Secretary for Preparedness – U.S. Department of Homeland Security
3. **Date of nomination:** October 21, 2005
4. **Address:**

Office – 1111 East Broad Street, Richmond Virginia 23218
5. **Date and place of birth:** June 7, 1962 – Lexington, Virginia
6. **Marital status:** Married Gail Ann McTague
7. **Names and ages of children:**
8. **Education:** Lexington High School, Lexington Virginia 1976 – 1980 Graduated 1980.

Virginia Military Institute 1980 – 1985, B.A. History

Virginia Executive Institute 1998
9. **Employment record:** See attachment 1
10. **Government experience:** Appointed Positions- Member and Vice Chairman of Congressionally established Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction 1999-2003. Chair Virginia's Secure Commonwealth Panel 2004 – Present. Chair Virginia Military Advisory Council 2004 – Present. Member, Virginia Real I.D. Task Force 2005 - Present. Member Virginia Emergency Medical Services Advisory Board 1990's. Member Chesterfield County Board of Zoning Appeals 1990's. FEMA Regional Interagency Steering Committee 1990's, FEMA Urban Search and Rescue Advisory Board '99-2002.

Ad-Hoc Positions – Have served on numerous working groups during the course of 20 years of public service including recent Department of Homeland Security Funding Task Force 2004, States Election Security Working Group – 2004, and Intelligence and Information Sharing Initiative 2005.
11. **Business relationships:** None.
12. **Memberships:** National Emergency Management Association – member 1989 - Present, Chair of Emergency Management Assistance Compact Operations Committee (1999-2000), member various task forces. Member Virginia Emergency Management Association 1988 – Present, Secretary 1991 – '93, member various task forces. Member National Homeland Security Consortium 2003 – Present. Member Homeland Security Policy Institute 2005 – Present. Member Virginia State Fire Chiefs Association 1980's and 1990's, Member Virginia Association of Volunteer Rescue Squads 1980's and 1990's. Member Huguenot Ruritan Club 1998 – 2001. Member Kappa Alpha Order National Fraternity 1990 - Present
13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have

been a candidate. - None

- (b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. - None
- (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 5 years. - None

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Daughters of the American Revolution Good Citizenship Award
 Lexington Fire Department – Firefighter of the Year Award
 Lexington Rescue Squad – Squad member of the Year Award
 Virginia Department of Emergency Management – Multiple Special Recognition and Achievement Awards
 1985 – 2001.

15. **Published writings:**

16. **Speeches:** See Attached

17. **Selection:** On file in the Committee's office.

- (a) Do you know why you were chosen for this nomination by the President?

I possess both the strategic vision and I am an effective advocate for managing risk by integrating and synchronizing the activities of government, the private sector and citizens towards improving the nation's preparedness for emergencies and disasters of all kinds, including terrorism. I have both practical experience and a proven track record of translating concepts into tangible actions that effectively unite preparedness efforts.

- (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I possess more than 20 years of proven experience at the local, state and federal levels in successfully addressing complex issues related to preparedness for emergencies and disasters of all kinds, including terrorism. My career has been grounded in the principles of order, discipline and commitment to public service provided by my parents and family, strengthened through my education at the Virginia Military Institute and enhanced through more than 20 years of practical experience.

Over the course of 20 years I have been confronted with making a wide range of decisions that have been formative in terms of framing my ability to rapidly analyze situations, determine needs and establish and implement effective actions to meet objectives. These decisions have ranged from tangible steps to save lives and protect property to fulfilling needed administrative actions to operate complex organizations. My experience includes applying these traits to operational, program and policy issues at the local, state and national levels.

Key to my success as a public sector executive leader has been the ability to simultaneously address multiple complex issues that have both short and longer term implications. I am both an immediate crisis problem solver and strategic visionary. I have been the architect of progress in many areas because of the proven ability to work with multiple stakeholders in developing tangible consensus towards common goals. I also understand that the ability to

appropriately exploit tangible consensus is a foundation for finding agreement where disagreement exists.

Communication is the key to developing and sustaining forward momentum in terms of preparedness. I am a proven communicator who has been able to articulate the importance and elements of preparedness to the full audience of stakeholders. Preparedness in the broadest sense is the complete realm of the actions taken in the public and private sectors and with our citizens to deter, prevent and mitigate emergencies and disasters, large and small and if necessary to respond and recover. Preparedness is about how we as a society and a nation manage risk. The ability to clearly articulate defined preparedness goals and needed efforts to ensure the accomplishment depends upon translating concepts into tangible organized actions in a manner understandable to all involved – in government, the private sector and with citizens.

Throughout a 20 year career I have experienced first hand the value of training and education, exercises and planning in creating a viable framework for managing risk. From my philosophical vantage point preparedness is not the responsibility of single private or public sector organization, level or branch of government, citizen constituency or person. It is a shared responsibility among all. It requires abilities to adapt and react to current situations and environment as well as envisioning future risks and taking the steps to be ready. This applies to all facets of society.

Enhancing preparedness requires government to facilitate, orchestrate and synchronize the efforts of many toward common goals. Government at any level cannot and should not be expected to execute the full realm of actions required to prevent, deter, respond and recover from crisis events. Government, however, should be the centerpiece of bringing all elements of society together to craft an organized unity of effort and where appropriate to provide needed direction and resources to facilitate accomplishment.

I understand the value of coordinated efforts. I have personally directed operational activities for a wide range of risks from actual terrorist attacks to natural disasters to technological emergencies. My experience includes integrating multiple public and private sector organizations, with specific missions and goals and frequently differing perspectives into unified structures. I have accomplished this as a State or Deputy State Coordinating Officer for more than 15 federally declared disasters in Virginia; federal, state and local and private sector sponsored exercises; and hundreds of smaller yet significant emergencies and disasters involving multiple public and private sector organizations.

Most recently, my experience includes extensive policy level work with elected and senior appointed public sector leaders and private sector officials, among others, to develop a comprehensive approach to preparedness for Virginia and the nation. I am privileged to have been very active in national discussions over the course of the past eight years. My work with the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction and other efforts prior to and since the September 11, 2001 attacks to unite the efforts of communities, states, the federal government, the private sector and our citizens to improve national preparedness have provide a valuable perspectives. I will bring these perspectives to this post if it is the will of the United States Senate to confirm me. The involvement in these national discussions and debate about how we can best integrate the efforts of many towards a truly national, and not simply federal, approach to preparedness are skills developed in the course of thousands of interactions and discussions throughout my 20 year career.

I am confident in my abilities to create measurable progress towards enhanced national preparedness through the important role of the federal government and specifically, the United States Department of Homeland Security. This is not a position that I sought. It is,

however, a position that I believe I am uniquely qualified to fill. Throughout my career I have been intimately involved with the full range of preparedness issues facing the nation today — natural disasters, terrorism, public health emergencies and information technology vulnerabilities to name a few. Experience, combined with a personal conviction to the importance of public service and instilled values of answering the call to duty led me to conclude that accepting the President's nomination was important for the nation. I am hopeful that the United States Senate will see fit to confirm me as I believe I can bring important experience and perspective to the critically important work of America's preparedness for emergencies and disasters of all kinds, including terrorism.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? **Yes**
2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. **No**
3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? **No**
4. Has anybody made a commitment to employ your services in any capacity after you leave government service? **No**
5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? **Yes**

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. **None**
2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity. **In the normal course of employment for the Commonwealth of Virginia have provided, upon request, analysis of proposed or contemplated legislation. No active involvement in securing the specific passage or defeat of legislation.**
3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? **Yes**

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. **No**
2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details. **No**
3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details. **No**
4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. **None**

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

George W. Foresman being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Subscribed and sworn before me this 3RD day of November, 20 05

Wendy C. Hoffman
Notary Public

Work Experience
George Williamson Foresman

WREL Radio Lexington, Virginia 1979 – 1985/Radio Announcer

City of Lexington, Virginia 1983 – 1985/ Civilian Employee in Police Department performing communications and special projects

City of Lexington, Virginia 1979 – 1982/ Volunteer Firefighter in Fire Department

City of Lexington, Virginia 1982 – 1990/ Volunteer EMS Provider in Rescue Squad

Virginia Department of Emergency Management 1985 – 2002

Disaster Recovery Grants Manager 1985 – 1988

Emergency Management Planner 1988 – 1989

Special Projects Director (State Emergency Planning) 1989 –1992

Intergovernmental Relations 1992 – 1994

Operations Director 1994 – 1996

Assistant Director 1996 – 1998

Deputy Director 1998 – 2002

Office of the Governor, Commonwealth of Virginia

Deputy Assistant to the Governor for Commonwealth Preparedness 2002 – 2004

Assistant to the Governor for Commonwealth Preparedness 2004 - Present



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

November 14, 2005

The Honorable Susan M. Collins
Chair
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

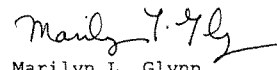
Dear Madam Chair:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by George W. Foresman, who has been nominated by President Bush for the position of Under Secretary for Preparedness, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the Department of Homeland Security concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated November 8, 2005, from Mr. Foresman to the Department's ethics official, outlining the steps that Mr. Foresman will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with the actions he agreed to take in his ethics agreement.

Based thereon, we believe that Mr. Foresman is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,


Marilyn L. Glynn
General Counsel

Enclosures

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the
Nomination of George W. Foresman to be
Under Secretary for Preparedness, Department of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Under Secretary for Preparedness for the Department of Homeland Security (DHS)?

ANSWER:

I believe the President nominated me for this position because I possess both the strategic vision as well as the necessary effective advocacy for managing risk through integrating and synchronizing the activities of the government, the private sector, and our citizens towards the goal of improving the nation's preparedness for emergencies and disasters of all kinds-both natural and terrorism-related. In addition, I have both practical experience and a proven track record of translating concepts into tangible actions that effectively unite preparedness efforts.

2. Were any conditions, expressed or implied, attached to your nomination?

ANSWER:

No.

3. What specific background and experience affirmatively qualifies you to be Under Secretary for Preparedness, DHS?

ANSWER:

My career has been grounded in the principles of order, discipline, and commitment to public service provided by my parents and family, strengthened through my education at the Virginia Military Institute, and enhanced through more than 20 years of practical, proven experience. This includes experience at the local, state, and federal levels in successfully addressing complex issues related to preparedness for emergencies and disasters of all kinds, including terrorism. Most recently, my experience includes extensive policy level work with elected and senior appointed public sector leaders and private sector officials to develop a comprehensive approach to preparedness for Virginia and the Nation.

Although this is not a position I sought, it is a position that I believe I am uniquely qualified to fill. Throughout my career I have been intimately involved with the full range of preparedness issues facing the nation today-natural disasters, terrorism, public

health emergencies, and information technology vulnerabilities among them. I am, therefore, confident in my abilities if confirmed to create measurable progress towards enhanced national preparedness through the important role of the federal government and, specifically, the Department of Homeland Security.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Under Secretary for Preparedness, DHS? If so, what are they and to whom have the commitments been made?

ANSWER:

I have made no commitment regarding specific policies and principles I will implement, but I expect to be part of the team assembled by Secretary Chertoff and Deputy Secretary Jackson and to carry out the policies and principles adopted by that team.

5. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.

ANSWER:

There are no issues that I can currently foresee affecting my role that will require me to recuse or disqualify myself because of a conflict of interest or the appearance of a conflict of interest. However, should a situation arise that calls this into question, I will immediately consult with the Department's Designated Agency Ethics Official to seek advice and guidance.

6. In a November 8th, 2005 letter to Robert E. Coyle, Designated Agency Ethics Official for DHS, you wrote that upon confirmation, "[p]ursuant to 5 C.F.R. § 2635.502, for one year after I leave my position with the Commonwealth [of Virginia], I will not participate in any particular matter involving specific parties in which the Commonwealth is a party or represents a party, unless I am authorized to participate."
 - a. Please describe the scope and extent of matters from which you believe you will be required to recuse yourself as a result of this agreement.

ANSWER:

Based on my knowledge of on-going activities within the Commonwealth of Virginia and the nature of grant administration decision making I do not expect to have to recuse myself. However, if there are any activities where I would be expected to render a decision specific and solely related to the Commonwealth of Virginia I will

seek counsel from appropriate ethics officials before any actions are taken.

- b. Please describe the process you will follow to determine when you will have to recuse yourself and how the Preparedness Directorate will address issues from which you will be recused.

ANSWER:

If in my determination I will be required to render a decision that will directly impact the Commonwealth of Virginia or if information is presented to me that leads me to believe that an action I take will directly impact the Commonwealth of Virginia, I will cease discussions and actions until such time as I can consult with the appropriate ethics officials.

- c. In which matters involving the Commonwealth of Virginia do you anticipate you will be "authorized" to participate?

ANSWER:

I would expect that I would be involved in programmatic matters and discussions relating to the National Capital Region as well as general grant management activities of which discussions are applicable to all states, territories or tribal entities. My general rule will be to ensure actions taken by me do not have a direct financial impact or may give the appearance of impropriety as it relates to the Commonwealth of Virginia, without first receiving guidance and acting in accordance with recommendations from appropriate agency ethics officials.

II. Role of the Under Secretary for Preparedness, Department of Homeland Security

- 7. What is your view of the role of the Under Secretary for Preparedness, DHS?

ANSWER: This is a critical role for the Department and the nation. I view my role as being responsible for facilitating the harmonization and synchronization of the full range of local, state, federal, private sector and citizen preparedness efforts. This might best be described as being the hub of America's preparedness activities with the various levels and disciplines of government as well as the private sector performing the component activities best suited for them. I anticipate that among the most critical activities being to facilitate the full range of stakeholders in developing shared and well understood visions, plans and processes about their respective roles in national preparedness. Paramount will be to create necessary processes and procedures to translate concepts into tangible actions by providing the framework to accomplish and measure progress.

8. In your view, what are the major internal and external challenges facing DHS and the Directorate for Preparedness? What do you plan to do, specifically, to address these challenges?

ANSWER: The primary internal challenge is a new department that, because of its relative organizational infancy, not yet developed sustained processes for communication and coordination of activities among its various employees and components. External challenges vary but the most notable challenge is communication among stakeholders in terms of developing shared visions for the actions needed to improve America's safety and security through our ability to better manage risks to people, property, the economy and society. Specifically if confirmed I would anticipate significant interaction with internal and external stakeholder groups to assess current progress, identify additional steps that can strengthen collaboration and coordination and the implementation of business processes to better integrate the preparedness work of all stakeholders.

9. If confirmed, how would you communicate with Directorate for Preparedness staff to receive their input on the activities and policies of the office?

ANSWER:

I understand that there are already internal communication procedures in place that would allow me, as the Under Secretary for Preparedness, to communicate with DHS staff on important matters. I believe the free flow of informal communications is a vital piece of good performance, and from my exposure to the leadership and staff at DHS, I believe there will be robust and productive communications as a part of our daily work. In addition, I will seek to establish and mirror these current communication procedures within the Preparedness staff. As Under Secretary, I will not only capitalize on these important existing communication assets but also seek to encourage improvements in this area.

III. Policy Questions

Second Stage Review

10. Under the Secretary's reorganization proposal, the Directorate for Preparedness will assume responsibility for the Department's preparedness efforts, including planning, training, exercising, and funding. Response and recovery will remain under FEMA; however, FEMA's preparedness programs will be transferred to the Directorate for Preparedness.

- a. What are the policy and operational benefits from this new alignment from your

perspective? What are the disadvantages?

ANSWER:

It is my understanding that, under the Department of Homeland Security (DHS) reorganization announced by Secretary Chertoff, FEMA will focus on its principal mission of response and recovery to emergencies and disasters as well as mitigation. I agree with the Department that in order to effectively respond to and recover from disasters, FEMA, as well as first responders at all levels, must first prepare to do so. This includes activities such as planning, training and exercising as well as building relationships and partnerships with a myriad of organizations including state emergency management and homeland security organizations as well as partner federal agencies at the headquarters and regional level.

I believe that by creating a new Preparedness Directorate, DHS will be better able to assess the most effective ways to enhance preparedness, prioritize policies and operations according to a risk-based approach; and strengthen coordination efforts to support first responder training, citizen awareness and public health. I believe these changes will enhance the Departments ability to work with communities, states, other federal agencies and the private sector more effectively before an emergency strikes, while enabling FEMA to focus on its core function of response and recovery.

It is my view that all of the reorganization effort in the years ahead will ensure we are best protecting the American people from disasters of all kinds. Obviously, FEMA has responded to the needs of millions of victims and helped them through the recovery process for nearly 30 years. The structural changes to the Department will better coordinate all preparedness pieces from across the Department assisting our federal, state and local partners in all-hazards planning, and ensure that FEMA, the Department and the Nation are equipped to face the disaster response and recovery challenges in the years ahead.

- b. What is your understanding of the relationship between the Directorate for Preparedness and the Federal Emergency Management Agency?

ANSWER:

It is my understanding that under the Second Stage Review, FEMA will be a direct-reporting office to the Secretary of Homeland Security. In order to strengthen and enhance our Nation's ability to respond to and recover from manmade or natural disasters, FEMA will now focus on its historic and vital mission of response and recovery. I am confident that the preparedness and response agencies within the Department will closely coordinate to ensure achievement of a better prepared America. If confirmed, I am committed to working closely with all the components within the

Department to achieve our shared goal of securing our Nation from terrorist events and natural disasters.

- c. How can the relationship between FEMA and Preparedness be enhanced to ensure that each agency strengthens the other's mission?

ANSWER:

As noted above, I am confident that the preparedness and response agencies within the Department will closely coordinate to ensure achievement of a better prepared America. And, if confirmed, it will be essential for success to work closely with all the components within the Department to achieve our shared goal of securing our Nation from terrorist events and natural disasters. In so doing, I will proactively seek means by which the relationship between FEMA and Preparedness in particular can be further enhanced.

- d. A strong response capability requires intense preparation. How will you ensure that through the Preparedness Directorate's responsibilities, FEMA, along with all DHS agencies, will receive the preparation it needs to carry out its duties. In what way will you try to link the Preparedness Directorate to FEMA to ensure that as a result of shifted responsibilities, response and recovery do not suffer?

ANSWER:

I believe that the preparedness functions and services the Department provides have already made extraordinary contributions to the performance of the Department's operational elements. The outstanding men and women who will staff the new Directorate work on a daily basis with their counterparts in FEMA and other DHS operational elements to ensure preparedness functions and strengthen national preparedness for response and recovery. Of course, unifying preparedness functions and services will enhance the delivery of required support to FEMA, other operational elements, and to state, local and private sector stakeholders. If confirmed, then, I will ensure a highly interactive dialogue and performance measurements that provide the accountability to ensure the Directorate is facilitating and delivering the right functions and services to operational elements. I will also ensure that the Directorate has the means to measure operational readiness and report performance to the President, Congress, and elected and appointed officials at the state and local levels of government in a meaningful and understandable way.

- e. Do you anticipate any challenges in this separation of responsibilities, particularly with regard to FEMA activities, and how will you address them?

ANSWER:

If confirmed, I do not anticipate any difficult challenges in the assignment and execution

of the Directorate and FEMA's respective mission responsibilities. On the contrary, I believe the consolidation of preparedness services and functions within the Directorate will make it easier for FEMA and other operational elements to secure needed preparedness support. Indeed, the establishment of the Directorate also provides the important means to ensure continuity of preparedness functions -- especially at critical periods leading up to, during and after a disaster when operational tempo necessarily requires FEMA and other operational elements to focus on their core response and recovery mission responsibilities. I firmly believe the high frequency of seasonal severe weather and other hazards, and the unpredictable pattern of potential terrorist attacks, requires preparedness functions and services to have stability and continuity to ensure uninterrupted support.

- f. What is the relationship between planning, a key element of preparedness, and response?

ANSWER:

From my own experience, I believe that planning is a coordinated process used to determine the best method of accomplishing a homeland security mission, such as response to the consequences of an emergency or disaster. It typically specifies the policies, procedures, and formats to be used across the spectrum of planning activities. Steps typically include: research; review of laws, plans, agreements and guidance; conduct of hazard/risk analysis; comparison and prioritization of risks; employment of scenarios; determination of the available resource base; plan development, validation, review, testing and maintenance; a remedial action process; and a revision process.

In the National Incident Management System (NIMS), response is defined as "activities that address the short-term, direct effects of an incident. Response includes immediate actions to save lives, protect property, and meet basic human needs. Response also includes the execution of emergency operations plans and of mitigation activities designed to limit the loss of life, personal injury, property damage, and other unfavorable outcomes.

Clearly, the Nation's homeland security system is highly interdependent and interrelated, and plans are maps that make sense of complex homeland security contingencies. Planning is a methodical and logical way to think through potential crises beginning with recognizing a problem, developing a solution, and preparing to execute the plan. A good plan repays the investment of time and effort in its development and rehearsal by shortening the time required to gain control over an incident, and by providing an environment and favorable conditions for rapid and effective exchange of information about a situation, its analysis and alternative responses. If roles, responsibilities, tasks and resources can be delineated before an incident, uncertainty is reduced, which leads to higher confidence and competence among responders.

- g. Should FEMA be included as part of the Preparedness Directorate in order to maintain strong connections between preparedness and response/recovery programs?

ANSWER:

No. Establishing the Directorate provides an integrated, unified, and focused portfolio of preparedness functions and services. The consolidation of preparedness functions and services frees FEMA to focus on its principal missions of response and recovery to emergencies and disasters as well as mitigation.

- h. What role should FEMA play in helping to determine criteria for grants that will be administered by the Preparedness Directorate, including emergency management planning grants, and making grant awards?

ANSWER:

I believe that many agencies with the Department, not just FEMA, should have visibility into how grants are administered. It is my understanding that FEMA currently participates in the review of state submissions for EMPG and has a role in reviewing grant guidance and the development of state plans.

11. Concerns have been raised by the emergency management community that the Secretary's reorganization will lead to unintended weakening of the FEMA's ability to prepare for and respond to disasters. Since FEMA has been moved into the Department, many of its preparedness functions have been moved from the agency into other agencies within the Department. Some believe these transfers have lead to a gradual weakening of FEMA's preparedness and response capabilities.
- a. What strategies do you recommend to help foster a more balanced approach to achieving the Department's stated goal of all hazards preparedness?

ANSWER:

I understand the Department of Homeland Security has been working with its federal, state and local counterparts to implement Homeland Security Presidential Directive 8, "National Preparedness." I am told that in the course of this capabilities-based planning effort, specific capabilities were developed by federal, state and local subject matter experts that cover the prevention, protection, response and recovery homeland security mission areas. The Government Accountability Office (GAO) affirmed in a July 2005 report that: "Because terrorist attacks share some common characteristics with natural and accidental disasters, 30 of DHS' 36 capabilities first responders need to support

preparedness and response efforts are similar. GAO's analysis found that the baseline capabilities required for terrorist attacks and natural or accidental disasters are more similar for response and recovery and differ most for prevention. Because terrorist attacks are planned, intentional acts, all of DHS' prevention capabilities focus on terrorist attacks, while almost all other baseline capabilities focus on all hazards." If confirmed, then, I intend to ensure that strengthening national preparedness is accomplished within this all hazards capabilities construct.

- b. What tensions do you believe exist between preparing for natural disasters versus preparing for terrorist attacks? How can they best be alleviated?

ANSWER:

As noted above, the GAO's analysis found that the baseline capabilities required for terrorist attacks and natural or accidental disasters are more similar for response and recovery and differ most for prevention. And that DHS' prevention capabilities focus on terrorist attacks, while almost all other baseline capabilities focus on all hazards. The Secretary, through the Second Stage Review, has established a framework to strike a better balance between preparing for natural disasters and preparing for terrorist attacks. In addition, of course, if confirmed as Under Secretary, I intend to learn more about what additional steps, if any, are needed to enhance this balance and work to implement them.

- c. How will you allocate your \$4 billion budget (for FY06) across natural disaster preparedness versus your other homeland security preparedness responsibilities?

ANSWER:

It is my understanding that a number of resources at different levels of government are available and should be leveraged to build and sustain capabilities. These resources include preparedness assistance programs managed by DHS, as well as other federal agencies such as the U.S. Department of Justice and the U.S. Department of Health and Human Services.

Many of the capabilities included within the Target Capabilities List (TCL) are dual-use in nature, in that they can apply to both terrorism preparedness as well as other hazards. Many activities undertaken to build or enhance capabilities that relate to terrorism also apply enhancements applicable to addressing other types of hazards. For example, mass evacuation planning supports terrorism preparedness as well as other types of catastrophic events. Planning for pandemic influenza and linking that effort to a larger bioterrorism preparedness effort offers another example.

Therefore, it is my understanding that even though the focus the State Homeland Security Program and the Urban Areas Security Initiative is primarily on terrorism, these programs build capabilities that are valuable in preparing for all major events. Accordingly, if

confirmed I look forward to learning how to utilize the current system of allocation and, in addition, determine what changes, if any, should be made in allocations.

12. In an October 31, 2005 letter to Senator Lieberman, Secretary of Homeland Security, Michael Chertoff described DHS' efforts to "work with Federal, State, and Local officials to review the emergency operations plans of all major American urban areas to ensure that those plans are clear, detailed, and up-to-date," as one of three important ways that the Second Stage Review will improve and strengthen the role of preparedness in DHS' missions. He went on to say that this review would include taking a more focused look at evacuation planning for events ranging from earthquakes to subway bombings and that through the Preparedness Directorate, DHS will focus on ensuring that plans at all levels of government are effective for the scenarios that may occur.

- a. How will you work to ensure that state and local plans are reviewed and brought up to par in a timely manner?

ANSWER:

If confirmed, I will support the Secretary's sound all hazards approach to the nationwide plan review, which includes particular emphasis on specific critical functions such as evacuation and shelter-in-place. I am told that the two-phased review includes a detailed self-assessment in Phase 1 by states and urban areas/major cities and their certification of plan status. Phase 2 consists of visits by a DHS-led Peer Review Team to validate the plan status and determine the need for planning assistance. Both phases will prioritize identification of execution critical deficiencies (those that may prevent execution of the plan as written) and acute issues identified in the 2005 hurricane season. I understand that the goal is to accomplish the primary review before the start of the 2006 hurricane season.

- b. In your effort to improve upon planning at all levels of government, how do you plan to encourage state and local cooperation?

ANSWER:

I understand that participation in the nationwide plan review by states, territories and the 75 designated urban areas/major cities is a prerequisite for receipt of DHS grant funds. I am also told that teams principally consisting of former State and local homeland security advisors and emergency management directors will conduct the peer review. I believe that employing a peer review process ensures experts most familiar with the planning processes and plans at the state and local government levels provide feedback and assistance in plan enhancement.

I understand the Department has also proposed the addition of another national priority to the National Preparedness Goal to: "Strengthen emergency operations planning and

citizen protection capabilities by conducting a comprehensive national plan review and establishing a shared contingency planning process for the Federal and State and local governments.” If confirmed, I look forward to discovering and implementing any additional tools needed to enhance cooperation.

c. Do you believe that Federal homeland security assistance to state and local governments should be tied to some kind of verification or accreditation of state plans?

ANSWER:

Yes, I do believe so and it is my understanding that, as directed in HSPD-8, the adoption of approved strategies is a requirement for receiving Federal preparedness assistance at all levels of government.

d. What suggestions do you have as to how to ensure that these plans remain up-to-date and are revised when necessary?

ANSWER:

I believe that all-hazard planning is a shared responsibility of all levels of government and requires a shared commitment. Federal planning guidance, of course, generally supplements state planning guidance. States and localities have the primary responsibility to enhance their security and preparedness levels through strong planning. I certainly value the input from those in the field who are the Nation’s first line of defense. And, I know from personal experience that the Department has continually worked to seek the opinions of the State and local emergency response community. If confirmed, I am committed to building on the already strong outreach efforts to the stakeholder community.

Grant Programs

13. The Directorate for Preparedness will oversee the State and Local Government Coordination and Preparedness (SLGCP) grant programs, including the Emergency Management Performance Grant program (EMPG). State and local emergency management agencies have experienced delays in receiving EMPG funding due to the current policy of distributing funds through the State Administrative Agents (SAAs) even where an SAA is not part of the state Emergency Management Agency.

a. What do you believe to be the advantages and disadvantages of the current allocation policy?

ANSWER:

I certainly support the award of these funds through the State. I also firmly believe that

the distribution and uses of homeland security funds requires a strategic and coordinated approach. This process can most effectively be managed by a central agency within each State. However, if confirmed, I will certainly examine this issue to determine if we can identify a more efficient and effective means of distributing these funds.

- b. Do you believe the process should be changed to allow state Emergency Management Agencies to receive the grants directly?

ANSWER:

As noted above, I certainly support the award of these funds through the State. I firmly believe that the distribution and uses of homeland security funds requires a strategic and coordinated approach. And, if confirmed, I will certainly examine this issue further to determine if we can identify a more efficient and effective means of distributing these funds.

- c. Please provide your thoughts on the need for possible enhancements to the EMPG program for years such as 2005 when disasters have required emergency management agencies to, in many cases, deplete their resources in the effort to keep up with the needs of response and recovery efforts?

ANSWER:

I know that the Department recognizes the crucial role of the emergency management community in the prevention, protection, response, and recovery efforts necessary when disasters or other incidents of national significance occur, including the major disasters in 2005, at the State and local level, and when Federal assistance is needed.

I also understand that the Emergency Management Performance Grants (EMPG) program has remained focused on supporting the needs of the emergency management community and EMPG continues to provide vital planning, organization, equipment, training, and exercise support to State and local emergency managers. Under this program, of course, the State and local emergency managers have the flexibility to support their emergency management mission areas and structure individual emergency management programs based on their identified needs and priorities for strengthening their capabilities. In addition, States have the flexibility to develop intrastate and interstate emergency management systems and relationships to ensure effective emergency management, including response and recovery efforts.

14. In working with state and local governments, what guidance would you provide on how to allocate funding and efforts between prevention/protection and response/recovery?

ANSWER:

I believe it is critical that Federal homeland security funds support overall national preparedness goals and objectives. It is important for the Federal government to provide both the leadership, and to collaborate and work with States and localities to identify these national goals and objectives while striking the appropriate balance between these goals and objectives.

I also know that any Grants & Training (G&T) funds expended must be in accordance with goals and objectives identified in these strategies. At the same time DHS, acting through G&T, gives States the maximum flexibility to decide which projects and expenditures are of the highest priority. If confirmed, I will continue to support this policy of providing States and localities the flexibility to determine how they distribute their funds based on identified needs and capabilities that cover prevention, protection, response, and recovery.

15. Do you agree that, while we should place greatest emphasis on targeting homeland security funding to those areas thought to be at highest risk of terrorist attack, the inherent uncertainties of risk assessment require an effective homeland security strategy to also include significant funding dedicated to smaller communities and rural areas for first responders, as well as for infrastructure protection? If you are confirmed, what steps will you take to ensure that smaller communities and rural states and localities receive adequate federal assistance to achieve and maintain the essential capabilities that DHS has identified as necessary for the country to prepare for or respond to threats and natural disasters? Please explain.

ANSWER:

I believe that National preparedness means preparing the nation as a whole. The nation does not stop at city lines or other arbitrary boundaries. Rural communities have their own unique sets of needs and risks, and if attacked, would produce their own unique set of consequences. As such, if confirmed, I will work to ensure that the Preparedness Directorate continues to work with and provide assistance to all different types and sizes of communities – whether urban and rural – through these efforts and explore new options to ensure that rural communities receive the support they need.

16. Each year since FY03, for the purpose of distributing what are intended to be risk-based homeland security grants, DHS has come up with a new formula for computing localities' risk, involving different factors and weighting them differently than the year before. Changes in the methodology from year-to-year have resulted in significant changes in funding decisions that may or may not necessarily reflect changes in actual risks faced by those localities. This year, the formula will be expanded to apply to portions of state homeland security grants and law enforcement terrorism prevention grants, as well as certain infrastructure protection grants. DHS staff has acknowledged that existing methods are insufficient to calculate the probability of any given terrorist attack and that there is significant debate surrounding the appropriate way to measure the key variables

of threat, vulnerability, and consequences. Given these difficulties, how confident are you that DHS is currently able to make comprehensive and accurate assessments of risk upon which to base its grant decisions? How will you go about determining whether the formula chosen is valid – i.e., that it measures something meaningful and approximating risk? Please be as specific as possible.

ANSWER:

Yes, I agree that it is extremely difficult to predict with certainty where a terrorist strike may occur. That is why I believe that President's FY 2006 budget request includes a minimum funding level of .25 percent. While the large majority of funds will be distributed based on risk and needs, this guaranteed funding level should allow States to advance their levels of preparedness. Further, we should not forget that homeland security is a shared responsibility. The funds provided by the Federal government should supplement and not supplant funds that States and localities will dedicate to homeland security.

As I understand, the Department has significantly improved its ability to quantify risk based on threats, vulnerability, and consequence which will enable us to better target funds. However, having not seen what DHS has done in assessing risk to date, I will need to review the methodologies in place and then determine the validity of the current assessment process. I do, however, agree with the Secretary that the three elements of consequences, vulnerability and threat need to be factored into the equation.

17. For FY06, the Department of Homeland Security is implementing a risk-based methodology for homeland security funding that purports to assess both the risk to and needs of local jurisdictions. The model is specific to particular jurisdictions. However, during a catastrophic disaster or terrorist attack, experience indicates that the response will include regional as well as national resources. In addition, some essential capabilities, such as sustainable and interoperable communications, must be available for responders coming from federal, state and local agencies, some far away from the incident. How does the particular risk-based model that DHS is using to determine homeland security funding priorities help achieve these regional and national preparedness challenges? Secondly, are there any national, as opposed to local, vulnerabilities that we need to address? If so, how does the present funding model support closing those vulnerabilities?

ANSWER:

As a State Homeland Security Advisor, it is my impression that the current risk-based model for allocating funds effectively addresses threats, vulnerability, and consequence; thereby targeting the areas that have the highest risk. The program itself, allows states the flexibility to specifically implement protective measures to reduce the vulnerabilities identified within their own state and local communities.

There are other funding programs within the Department, such as mass transit, Buffer Zone Protection Plans (BZPP), and port security that address vulnerabilities within these targeted infrastructures. If confirmed, I believe the Department should continually reevaluate the funding priorities of these targeted infrastructures.

18. For FY06, DHS will also factor in the needs of applicants in distributing risk-based funds. In quantifying "needs," how will DHS balance the competing goals of rewarding applicants for spending previously-awarded homeland security dollars to effectively address needs and targeting funds to those applicants with the greatest current needs?

ANSWER:

The Federal government and the Department of Homeland Security have provided unprecedented financial and operational support to state and local officials since March, 2003.

Funds should be committed for the sustainment of capabilities. Furthermore, many of the priority needs of the Nation will require complex, multi-year projects. We recognize that implementing the National Preparedness Goal, and achieving the capabilities that form the National Preparedness Goal is a long-term endeavor. We must prioritize our efforts based on risk, and we must invest wisely to ensure timely and effective improvement in building our capabilities. We must also remain committed to working with States and Urban Areas to build and enhance capabilities in the coming years.

The current funding model provides for a base amount of homeland security funding for each State. States should plan for and use this known base amount to help sustain their most critical homeland security programs and capabilities. The Investment Justifications that States must submit to request and receive FY 2006 HSGP funding specifically address the issue of sustainability. States must consider how the funds they are requesting will result in useful solutions instead of partial or incomplete solutions that are dependent on funds from future FY HSGP funds. States must also identify and explain how multiple funding sources will contribute to the implementation and sustainment of proposed solutions.

The threat environment will continue to shift, and as such our national priorities will be adjusted accordingly. Expecting guaranteed funding for a specific initiative several years into the future jeopardizes the flexibility we will need to continue to target funding to those areas of greatest risk and need.

19. Many state and local officials have stated that in order to prepare for terrorism or other hazards, what they need most from the federal government is predictable, reliable level of support from the federal government. That is presumably important so that these officials can make plans, for example to purchase interoperable communications equipment,

which will require multi-year commitments. From your experience, how valid is this point of view?

ANSWER:

From my perspective, the Federal government and the Department of Homeland Security have provided unprecedented financial and operational support to state and local officials since March, 2003, with the beginning of the Department.

Clearly, funds should be committed for the sustainment of capabilities. Furthermore, many of the priority needs of the Nation will require complex, multi-year projects. I believe DHS and the Administration recognize that implementing the National Preparedness Goal, and achieving the capabilities that form the National Preparedness Goal, is a long-term endeavor. We must prioritize our efforts based on risk, and we must invest wisely to ensure timely and effective improvement in building our capabilities. The threat environment will continue to shift, and as such our national priorities will be adjusted accordingly. Expecting guaranteed funding for a specific initiative several years into the future jeopardizes the flexibility we will need to continue to target funding to those areas of greatest risk and need.

We must also remain committed to working with States and Urban Areas to build and enhance capabilities in the coming years. Of course, the current funding model provides for a base amount of homeland security funding for each State. I believe that States should plan for and use this known base amount to help sustain their most critical homeland security programs and capabilities. For example, the Investment Justifications that States must submit to request and receive FY 2006 HSGP funding specifically address the issue of sustainability. States must consider how the funds they are requesting will result in useful solutions instead of partial or incomplete solutions that are dependent on funds from future FY HSGP funds. States must also identify and explain how multiple funding sources will contribute to the implementation and sustainment of proposed solutions.

20. The FY06 DHS appropriations bill continues the trend (since FY04) of reducing funds for key state and local homeland security grant programs. For FY06, the State Homeland Security Grant Program (SHSGP), which most states rely on for first responder training, equipment, exercises and planning, will be reduced by 50% to \$550 million. In FY05, the program was funded at \$1.1 billion. The Urban Area Security Initiative (UASI) program, which provides funds for first responders in about 30 major metropolitan areas in FY05, will be reduced from \$885 million to \$765 million in FY06. The Local Law Enforcement Terrorism Prevention Program (LLETP), which provides funds specifically to law enforcement for a variety of prevention activities, will be funded at \$400 million, which is the same level appropriated in FY05. Overall, the three major programs - SHSGP, UASI, and LLETP were reduced by 28% from FY05 levels. The overall reduction in the three core programs is \$670 million (\$2.385 billion - \$1.715 billion). Do you believe that

these cuts will have an adverse affect on the ability of state and local governments to achieve the objectives of the National Preparedness Goal? If not, why not?

ANSWER:

I understand the clear purpose of the National Preparedness Goal is to measure the effectiveness of these programs. Following completion of the Goal and its metrics, there will be a better understanding of the efficacy of these programs and the funds associated with their initiatives.

21. There have been persistent concerns about the length of time it takes for homeland security grant funds to go out to states and localities and, ultimately, to the nation's first responders.

- a. Based on your experience as Assistant to the Virginia Governor for Commonwealth Preparedness, do you share these concerns?

ANSWER: I was privileged to work on the Homeland Security Funding Task Force established in 2003 to examine these issues. That was a strong group comprised of local, state and federal agency experts. The task force made critical recommendations and in-fact Congress approved one of the most crucial related to the Cash Management Act. We need to make sure that data and processes to support grants management reflect the urgency of the need while ensuring appropriate checks and balances. My experience tells me that erroneous data can lead to erroneous conclusions. I also know that ordinary processes for local, state or federal grants management may need to be adjusted to deal with the extraordinary needs associated with strengthening America's preparedness – especially in face of a continuing terrorist threat. I can only comment from my Virginia perspective and the problem has been less about speed and more about making sure the limited resources are used in a manner that is most effective.

- b. What would you do to expedite the flow of such grant funds?

ANSWER: As I just mentioned, among my first actions will be to ensure the data from local, state and federal entities involved in the grant processes is accurate and timely. Second, I will remain attuned to following through on the Task Force's work to see if everyone involved has in-fact adopted the agreed upon recommendations to do their part towards improving the overall grants management process. Overall success is a shared responsibility.

22. Concerns have been raised about coordination with subject matter experts across the Department in setting priorities for grant funding, such as with the Coast Guard for port security grants and the Transportation Security Administration for transit security grants. The Directorate for Preparedness may also benefit from leveraging expertise across the federal government, such as with the Department of Transportation. How will you ensure

the priorities of agencies like the Coast Guard and the Transportation Security Administration, as well as the Science and Technology directorate, are incorporated into grant guidance decisions?

ANSWER:

As noted earlier, I certainly believe that we should all work closely together in the decision-making process with respect to Preparedness. Accordingly, if confirmed, I look forward to discussing how best to reflect the priorities of our partner agencies in our grant guidance.

23. In FY05, the Port Security Grant Program administered by SLGCP limited the number of ports which could even apply for port security grants to approximately 60. This was done despite the fact that Maritime Transportation Security Act and DHS and Coast Guard regulations for port security affected all ports in the United States, and established minimum security standards that all ports had to meet. Although some ports may face greater risks and have immediate needs, do you believe that all ports should be allowed to at least apply for port security grants, and compete for those resources based on risk, threat and need?

ANSWER:

I understand that the purpose of the Port Security Grant Program (PSG) is to enhance the physical security of our Nation's ports based upon risk, considering both port-specific and national factors. This is complimentary to the broad security enhancements required by the Maritime Transportation Security Act (MTSA), but not directly related to MTSA implementation since the basic requirements of the Act have already been satisfied. However, while the focus of the PSG program is narrower in scope, the Department recognizes the need to ensure that ports with a high degree of criticality are not excluded from consideration. Therefore, as part of the FY 2006 PSG Program, the Department is reevaluating the criteria used to determine initial eligibility to apply for funding to ensure that the most appropriate factors are considered.

24. In FY05, for the first time, DHS awarded transit security grants on a regional basis. That is, where transit systems extend into more than one state, the money was awarded jointly to all affected states and representatives of each state were required to form a working group to develop a regional strategy to safeguard the transit system. Previously, transit grants for multi-state systems had been awarded only to the state where the transit system was headquartered, with no obligation that the headquarters state shares the money with other localities.
- a. Do you agree that a regional approach to providing transit security grants is a more logical way of protecting passengers on a multi-state transit system?

ANSWER:

Yes, I agree that a regional approach to providing transit security grants is a more logical way of protecting passengers on a multi-state transit system. The regional approach to providing grants is a logical method for increasing passenger security, for greater information sharing, leveraging of funds and assets, and a more seamless approach to awareness and prevention.

b. Will you continue to make transit security grants on a regional basis?

ANSWER:

If confirmed, I will continue to implement the Department policy of determining homeland security funding based on risk and need, and awarding these grants on a regional basis, if that continues to be the best approach possible to address the identified risks and needs.

25. In his written answers to pre-hearing questions from this Committee, Secretary Chertoff, was asked whether he agreed that "while population should be a factor in the allocation of homeland security grants, localities that face significant threats should not be disqualified from receiving homeland security funding simply because they do not meet a particular population threshold." He responded, "[y]es, all jurisdictions should be given consideration when allocating homeland security funding and funding should be allocated based on risk." In contrast to the view expressed by Secretary Chertoff, DHS, according to DHS staff, imposed a population threshold in FY05 for cities to be considered for UASI grants, regardless of the level of threat faced by the city. Do you agree that localities that face significant threats should not be disqualified from receiving homeland security funding simply because they do not meet a particular population threshold? If confirmed as Under Secretary for Preparedness, will you work to remove this population threshold for consideration for future grants?

ANSWER:

If confirmed, I will support the Administration and the Department's policy of distributing homeland security funds on the basis of risk and need.

26. Should the risk of national disasters be considered in DHS' methodology to determine risk for homeland security grant programs?

ANSWER:

I believe natural disasters and hazards should not be part of the methodology to determine risk for the State Homeland Security Grant Program (SHSGP) and the Urban Areas Security Initiative (UASI). For these programs, risk should be based on the unexpected,

and unpredictability of terrorist-based activities rather than natural disasters. Risk should focus on the consequences of a specific attack to a particular asset, the vulnerability of that asset to the threat, and the overall threat to the asset. The risk methodology should take into account asset-based, as well as geographically-based, data to determine threats, attack types, and attack probability and impact that could result from acts of terrorism. Additionally, natural disaster considerations are addressed through the needs-based funding approach for FY 2006 grant allocations. The needs-based approach allows States to identify priority areas, specific to their localities and jurisdictions, including the strengthening and sustainment of capabilities to manage all-hazard risks, as applicable and appropriate.

27. Please discuss your understanding of “risks”, the various kinds of risk facing states and local communities, and how your understanding of risk will be used to guide federal leadership and support for preparedness activities.

ANSWER:

It is my understanding that, for DHS’ purposes, risk is composed of three variables, namely the consequences of an attack to some asset, the vulnerability of that asset to some particular threat, and the threat to that asset.

There is significant debate within the terrorist risk community as to what are the proper mathematical operations that relate to these variables. However, from logic alone, one can argue that if any one of the values is known to be zero, the risk is either non-existent, or of little concern. That is, if a particular asset has no value and is of no consequence if lost, the risk, regardless of how vulnerable it may be or how many people want to destroy it, it is simply not of concern to DHS. Similar logic says that a highly consequential asset, if absolutely impregnable, is not at risk from any number of antagonists, and finally, if it is consequential and highly vulnerable, but no one is interested in doing anything to it, the risk result – for the purposes of a national risk assessment and asset prioritizations – is effectively zero. That said, the lack of statistics is but one part of the problem, the adaptability of terrorists in varying tactics and target sets compound the problem even further. If confirmed, I am certainly committed to further study to determine how best to utilize risk to guide the federal leadership.

28. In general, how would you compare and contrast the risk of natural disasters and other hazards with the risks of terrorist attacks? What differences do you see in our approach to managing the risks associated with different kinds of events?

ANSWER:

After many years of experience, I can say that, although we may have advance warning of conditions which may create a natural disaster, and while intelligence may warn us of a heightened likelihood of a terrorist attack, we cannot be expected to predict with certainty

where terrorists may strike next, nor always know just when the next natural disaster may hit. For this reason, the Department and the government must assist in preparation for both and provide funds as appropriate to mitigate the greatest risk. For example, while the President's FY2006 budget requested a large majority of funds to be distributed based on risk and need, it also included a minimum funding level of .25 percent for each state. In addition to the billions of dollars already allocated, this guaranteed funding level should allow states to advance their levels of preparedness. Further, we should not forget that homeland security is a shared responsibility. The action provided by the federal government should supplement and not supplant the responsibility shared with states and localities toward homeland security.

Preparedness

29. You have been the Assistant to the Virginia Governor for Commonwealth Preparedness for several years. In that capacity, you have been responsible for homeland security preparedness efforts in a large state characterized by wide differences in geography, population density, critical infrastructure, and preparedness capabilities.
- a. How specifically has preparedness and response capabilities locally and statewide in Virginia improved during the time you have served the Commonwealth in a preparedness leadership capacity?

ANSWER:

First, I want to acknowledge that our progress is because of the efforts of thousands of dedicated personnel who share a commitment to a safer and more secure Virginia and work hard to translate ideas into action. The biggest advancement has come in the form of improved cooperation and coordination and overall awareness about the importance of preparedness. Is it perfect? No. But all of the people involved do not allow the pursuit of perfection to get in the way of progress. The two specific areas I would highlight are information sharing and training and equipment. Today we have a statewide fusion center that is improving the sharing of information and intelligence among law enforcement and non-law enforcement agencies and among the public and private sectors. Secondly, we have seen improvements in a wide array of training and equipment capabilities among communities and state agencies. Through our statewide mutual-aid program this translates into higher specialty capabilities that support the entirety of the state and not simply a single community or geographic region.

- b. What metrics are used to measure those capabilities? To what extent do you believe such metrics might be useful on a national scale? Why or why not?

ANSWER:

Metrics are critical. Virginia was just named the best managed state, in-part, because of our commitments to metrics to measure progress. Dollars spent and speed by which they are spent do not necessarily imply progress. We have used in-part established national metrics, such as the NFPA 1600 standard to assess local and state capabilities. Others such as metrics from the Department of Health and Human Services allow us to measure progress with health and medical readiness. Common metrics will be critical to gaining a common assessment of national readiness – the combined values of local, state, federal and private sector readiness. The National Preparedness Goal and its sub-component goals will provide another level of granularity to the process. It has been my experience in twenty years that what gets measured does get done as it helps leaders ensure accountability.

30. What do you believe is the appropriate federal role in supporting state and local first responders in preparing to respond to or in preventing terrorist attacks? Do you believe that financial support for training, equipment and other key resources for first responders is primarily a federal responsibility or a state and local responsibility?

ANSWER:

I believe that homeland security is a national responsibility that requires a shared commitment between states and localities and the federal government. States and localities have a responsibility in enhancing their security and preparedness levels. The funds provided by the federal government should supplement, not supplant, funds that states and localities will dedicate to homeland security.

31. The response to Hurricane Katrina has raised important questions about the role of the private sector in preparing for and responding to disasters. In a recent hearing, the Committee heard that in some localities the private sector was able to respond and provide critical goods and services to citizens and local government officials before FEMA was on the scene. The Committee also heard that, for the most part, DHS does not effectively engage the private sector in its planning and preparedness for disasters. What are your views on the role of the private sector in responding to disasters and how would you address this issue if you are confirmed?

ANSWER:

I believe the private sector has a very important role preparing itself to respond to disasters as well as to engage with the various government agencies to respond to disasters. The Secretary and other senior DHS leaders have been urging the private sector to prepare for disasters. If confirmed I would similarly urge the private sector to prepare for natural and terrorist caused disasters. I understand that elements of the Department including the Office of Infrastructure Protection, which will be part of my responsibility,

and the Private Sector Office have been engaged with the private sector in planning and preparation for disasters. If confirmed, I would evaluate how the Preparedness Directorate and the Department could be even more effective in this effort.

32. Since 9/11, there has been some attention focused on the need for citizens to be better prepared for disasters or terrorist attacks. However, after Hurricane Katrina, it is even more important that a key element of national preparedness must be to ensure that citizens take preparedness seriously and have plans for adequate food and water, for communication with family members, and other essentials. Do you anticipate that citizen preparedness would be a major priority of yours if you are confirmed as Under Secretary for Preparedness? What are the major challenges that must be overcome to improve our nation's readiness in this area?

ANSWER:

I believe that my record and history demonstrate that, throughout my career in emergency management, I have always considered citizen preparedness a critical priority. In September 2002, I helped launch Virginia Corps, which houses the state's Citizen Corps program. If confirmed as Under Secretary for Preparedness, I will meet the challenge of creating a culture of preparedness through Citizen Corps' nationwide local grass roots efforts. Not only will I strive to have families and communities take action to be prepared prior to emergencies, I will support greater collaboration between emergency responders and citizens through volunteer service. If confirmed, I will also examine what other challenges are being presented and how best to resolve them.

33. Events in Russia and elsewhere demonstrate that there are no limits to the depravity of terrorists who are even willing to attack innocent school children. Indeed, some experts, including Dr. Irwin Redliner of Columbia University, believe that children, particularly at school, are at risk precisely because terrorists realize that it is one of the surest ways to cause fear and panic in society. What is your assessment of the current preparedness of our nation's schools for terrorist attacks, or other kinds of disasters? What would you do as Under Secretary for Preparedness to address this issue?

ANSWER: Terrorists have demonstrated their willingness to attack innocent civilians. Of course, the Department has been working from its beginning to determine how best to protect all innocent citizens. In addition, of course, I understand the Department of Education manages the "Emergency Response and Crisis Management Plans Discretionary Grants" Program, (authorized in 20 U.S.C. 7131) which is a competitive grant program for local educational agencies to improve and strengthen school emergency response and crisis management plans, including training school personnel and students in emergency response procedures; communicating emergency plans and procedures with parents; and coordinating with local government and with law enforcement, public safety, public health and mental health agencies. Furthermore, the Department of Education also funds an Emergency Response and Crisis Management (ERCM) Technical Assistance

Center that supports grantees and non-grantee local educational districts improve and strengthen crisis management plans. If confirmed, I will, of course, look forward to further review of this issue.

34. As DHS works to enhance our nation's readiness to respond to terrorist attacks or natural disasters, it is increasingly evident that our nation's emergency medical technicians (along with other first responders) must be included in the decision making process. They must also receive an appropriate level of resources for the training and equipment necessary to protect the public. Unfortunately, according to recent reports, the nation's 840,000 EMS personnel have not been fully integrated into DHS' programs and infrastructure. For example, according to the George Washington University Homeland Security Policy Institute, though EMS providers are roughly equal in numbers to firefighters and law enforcement officers, they receive only four percent of the first responder funding allocated by DHS. This means, for example, that EMS providers will lack the personal protective equipment and training they need to respond to an attack with weapons of mass destruction - thus rendering them unable to assist the public.

- a. What do you believe should be done in order to more fully integrate our nation's EMS providers into the homeland security preparedness activities?

ANSWER:

I believe the Department must assure that EMS experts are fully integrated into State and local Homeland Security planning, recognizing that EMS providers are essential parts of Federal, State and community preparedness and response. I understand that G & T has specifically included EMS providers in efforts to promote senior advisory committees and regional collaboration and planning at the state, urban area, and local levels to ensure coordination and integration of homeland security preparedness activities across all emergency response disciplines. In addition, all seven National Priorities outlined in the Interim National Preparedness Goal impact EMS and require coordination across all emergency responder disciplines.

I believe the Preparedness Directorate will work with the Department of Transportation and the Department of Health and Human Services through the newly authorized Federal Interagency Committee on Emergency Medical Services (FICEMS), as well as State and local EMS organizations to: a) develop EMS-specific standards for all-hazards preparedness, and b) help facilitate a nation-wide EMS system needs assessment, which has never been done. I am told that the Department intends to devote resources commensurate with the need for emergency medical services in the event of a catastrophic incident. These actions should serve to better align EMS system needs with the National Preparedness Goal.

- b. How can this be accomplished without simultaneously diminishing support provided to other first preventers and first responders?

ANSWER:

EMS personnel are a critical element of the nation's emergency responder community and the entire emergency responder community is in need of continued and additional support. Consistent with the President's budget and the nation-wide EMS system needs assessment, there should be support for improvements in the quality of EMS preparedness and response. It is my understanding that EMS has not been funded to the levels of other first responders to this point. Our funding decisions for first responders, including EMS personnel, will be based on threat-based needs of communities. I believe should encourage close cooperation among the members of the EMS and Homeland Security communities to ensure maximum benefit for all investments. If confirmed, then, I look forward to further reviewing this challenging issue.

- c. Do you believe that EMS currently lack a strong advocate in the federal bureaucracy and, if so, do you believe this is an appropriate role for DHS?

ANSWER:

I understand that EMS has several long-standing and successful Federal programs in both the Department of Transportation's National Highway Traffic Safety Administration and the Department of Health and Human Services. And that the EMS system requires a strong, coordinated relationship among DOT, HHS and DHS. I understand that the Chief Medical Officer will work with the newly authorized Federal Interagency Committee on Emergency Medical Services (FICEMS) to better align EMS system needs with the National Preparedness Goal. FICEMS will provide the necessary leadership, coordination and policy guidance to continue to improve Federal EMS programs. If confirmed, I will certainly closely review whether EMS should have a stronger advocate within the federal bureaucracy.

35. One challenge in developing an effective preparedness and response strategy for DHS is to coordinate with the many assets and resources in other agencies outside of DHS, such as the Department of Defense (DoD). The emergency response duties in DoD are carried out by active duty and reserve forces. Army and Air National Guard units serve under the authority of their governors, unless called into service by the President. Other agencies, such as the Department of Health and Human Services (HHS), the Department of Energy (DOE), the Environmental Protection Agency (EPA), and the Nuclear Regulatory Commission also have significant emergency response assets, authorities and capabilities. If you are confirmed, what role do you believe the Under Secretary for Preparedness will play in enhancing coordination with and leveraging these assets outside of DHS? What specific obstacles do you believe must be overcome to create the unity of effort required?

ANSWER:

As evident by the response to Hurricanes Katrina and Rita, if there is a catastrophic incident within the United States, nearly every Federal Department and Agency will be called to play a role in the response. The National Response Plan provides the structure for the overall federal incident management and response efforts and clearly lays the framework for closely coordinated employment of federal emergency assets as well as coordination with state and local authorities. It is imperative that we continue a robust training and exercise program across the response spectrum and make certain that all agencies learn the National Response Plan. One of the primary impediments to the collective management of incidents is communications. The National Incident Management System (NIMS) provides the doctrine, concepts, principles, terminology and organizational process needed for effective and efficient collaborative incident management. It is important to continue to persevere to ensure all responders are familiar with NIMS as well as ensure all responders have communications technology to apply it.

With regard to DOD, DHS has just recently created a Senior Military Liaison to the Commander of U.S. Northern Command and NORAD to further improve upon coordination of resources and assets between the two departments. Additionally as we draw upon the lessons learned from Katrina we will continue to further our relationship and coordination with the Pentagon in concert with the Senior Military Advisor to the Secretary of DHS.

36. DHS has finalized or issued drafts of three critical documents to guide the nation's preparedness for and response and recovery from major emergency incidents—whether these incidents are the result of nature, accident, or deliberate action, such as terrorist attacks. The documents are the National Response Plan, the National Incident Management System, and the National Preparedness Goal. How would you use the Directorate of Preparedness to effectively implement these three policy initiatives?

ANSWER:

With the development of the National Response Plan, the National Incident Management System, and the National Preparedness Goal, as well as the Targeted Capabilities List and the Universal Task List, the Department is in a better position to ensure that homeland security funds do support national goals and objectives. As this process has evolved, the Department has been able to not only provide states and localities with better guidance, but also to enhance its ability to articulate its requirements.

If confirmed, I will fully support the continued development and final implementation of the National Preparedness Goal, the National Response Plan, and the National Incident Management System to ensure that states and localities have the appropriate measures to determine how their programs are improving their overall levels of preparedness and what steps they need to take to address any identified gaps.

37. One criticism of the National Incident Management System is that in general the level of training that exists across the country is only at the "awareness" level. Put another way, many of the federal, state, and local officials who would be called upon to follow or implement NIMS during an incident of national significance do not currently have the level of understanding necessary to be truly effective. Do you believe there is any truth to this criticism? If so, what steps would you take to rectify this situation?

ANSWER:

It is my understanding that the implementation of the National Incident Management System (NIMS) across the country currently falls to FEMA's NIMS Integration Center. It is also my understanding that, from the standpoint of infrastructure protection, NIMS training and implementation by private sector critical infrastructure/key resources (CI/KR) partners likely lags behind that of Federal, State, local or tribal entities. I understand that most organizations among the CI/KR sectors do not engage in incident management and emergency response on a regular basis. Therefore, the adoption of NIMS/ICS within that community will be a longer process. At this time, I am told that the NIMS Integration Center does not keep detailed statistics on the level of private sector CI/KR training, but they intend to do so in the future. If confirmed, I will look further into this matter to determine what steps, if any, should be taken to enhance understanding.

38. From your experience, how important is it that exercises be conducted to help officials implement the National Response Plan? How do you assess the national exercise program being implemented by DHS thus far? Do you believe it is adequate? What changes would you propose?

ANSWER:

Clearly, implementation of the National Response Plan (NRP) and its supporting protocols requires extensive cooperation, collaboration, and information-sharing across jurisdictions, as well as between the government and the private sector at all levels.

Included in these activities are Federal support to State, local, and tribal authorities; interaction with nongovernmental, private donor, and private-sector organizations. Not only do these departments and agencies need to firmly understand the NRP, but they are also required to know the doctrinal framework for incident management contained in the National Incident Management System (NIMS), the template for the NRP.

From my perspective, the National Exercise Program (NEP) has greatly enhanced the collaboration among partners at all levels of government for assigned homeland security missions. In addition to full scale, integrated National level exercises, the NEP provides for tailored exercise activities that serve as the Department's primary vehicle for training national leaders and staff.

I believe, however, that the chief difficulty for the National Exercise Program is not per se an exercise issue. That difficulty is the lack of a systematic remedial action program across the Federal Government. Identifying shortfalls or issues in an exercise or after a real-world event does not resolve the issues. Correcting the shortfalls and issues is a difficult process. In most cases, this process is internal to each department and agency. To the maximum extent possible the Federal government resolves issues through application of grant resources, technical assistance, or training at the local, tribal, and State level. However, at the Federal level we have no interagency mechanism that is systematically used to follow up and track corrective actions from exercises and events.

39. The National Response Plan's Catastrophic Incident Annex indicates that a more detailed and operationally specific Catastrophic Incident Supplement is to be published independently of the National Response Plan.

- a. Has the Catastrophic Incident Supplement been completed? If so, please provide a copy to the Committee.

ANSWER:

The Catastrophic Incident Supplement (CIS) has been completed, however I am told that the Department is not issuing the CIS until it has had an opportunity to review it in light of lessons learned from Hurricanes Katrina and Rita.

- b. In your view, what is the role of the Catastrophic Incident Annex and the Catastrophic Incident Supplement? In the event of a catastrophic incident, how is the direction, guidance or authorities these documents provide different from that provided for in the main body of the National Response Plan?

ANSWER:

I know that the National Response Plan (NRP) is an all-discipline, all-hazards plan that establishes a single, comprehensive framework for the management of domestic incidents. And, as such, it provides the structure and mechanisms for the coordination of Federal support to State, local, and tribal incident managers and for exercising direct Federal authorities and responsibilities.

I understand that the NRP-CIA is intended to support no notice or short notice events. In such circumstances, the NRP-CIA describes how the federal government would push assets and resources into the theater of operations. And, further, that the NRP-CIA is augmented by the Catastrophic Incident Supplement (NRP-CIS), which organizes the Federal resources and capabilities into incident-specific "packages" and establishes an execution schedule and deployment strategy. I am told that the Department of Homeland Security is the coordinating agency for the NRP-CIA and NRP-CIS. As such, it notifies all supporting departments and agencies when the Annex has been implemented.

40. In the report, DHS 2.0, Re-thinking the Department of Homeland Security, James Carafano and David Heyman point out that “it is improbable that a catastrophic terrorist attack would affect only a single city or that a single city would be sufficiently prepared to mount a sufficient response. At a minimum, response efforts would likely require mutual aid from multiple jurisdictions. Despite this, DHS lacks an effective regional structure to facilitate coordination with state and local governments and with the private sector. Although efforts such as the National Response Plan and the National Incident Management System are providing a framework for this activity, DHS still lacks a suitable operational structure to support them.” Do you agree with this assessment? If you are confirmed, what are your thoughts about how DHS should address this problem?

ANSWER:

I know that the Department of Homeland Security (DHS) recently completed the Secretary’s Second Stage Review (2SR) of the Department and its functions. And, that the review identified that a fragmented operations function and limited internal and external connectivity inhibited an integrated national operations capability. A key result of the 2SR initiative was the establishment of the DHS Office of Operations. This new office consolidates Border and Transportation Security (BTS), the Homeland Security Operations Center (HSOC), and the Integration Staff (I-Staff) into a single Operations Directorate.

Clearly, good situational awareness is necessary to make good decisions. It is my understanding that this new Directorate and the on-going initiatives to improve situational awareness, will force a cascading effect of operational organization, structure, functioning, and execution throughout DHS. Indeed, I understand that the National Command and Control capability initiative coupled with the establishment of the DHS Office of Operations, better postures DHS to address command, control, operational organization, structure, functioning, and execution throughout the Department and across the spectrum of Federal, State, Tribal, Local, and the Private Sector in order to lead the unified national effort to secure America.

It is my view that the Office of Operations enhances command and control (C2) and provides unity of effort for operational matters throughout DHS through information sharing, integration of internal and external operations, incident management, and facilitation of rapid staff planning and execution. And, therefore, to resolve the issue indicated in the report. In addition, if confirmed, I look forward to learning more about the Office of Operations and how the Preparedness Directorate can most effectively interface with the office.

41. The National Strategy for Homeland Security was issued in July 2002, and has not yet been updated. The National Strategy had three strategic objectives of preventing terrorist attacks, reducing America’s vulnerability to terrorism, and minimizing the damage and

recover from attacks that do occur. Numerous other national strategies relating to combating terrorism and boosting homeland security have also been issued. The Directorate for Preparedness will be responsible for implementing many other objectives and initiatives in several of these other strategies, such as the National Strategy to Secure Cyberspace and the National Strategy for Protection of Physical Infrastructures and Key Assets.

- a. If you were providing input to revisions to the National Strategy, what principles would you espouse to assess, retain, or revise national strategic objectives, mission areas, and major initiatives to better respond to preparedness needs?

ANSWER:

I believe we need to improve overall national preparedness, especially for catastrophic events. To do this, I agree with Secretary Chertoff's remarks regarding his 'Second Stage Review'. Because we do not have unlimited resources, we must focus preparedness on objective measures of risk and performance. We should base our risk analysis on threat, vulnerability and consequences and we should concentrate on addressing those threats that pose the greatest consequence.

- b. Looking over the national strategies and the objectives and initiatives for which the Directorate for Preparedness will be directly responsible, what are the critical challenges and what would be your rationale for selecting these?

ANSWER:

I would set my priorities based on Secretary Chertoff's 'Second Stage Review' of the past year. First, we should focus on consolidating and integrating the preparedness assets that we already have. We should also facilitate grants, and oversee nationwide preparedness efforts supporting first responder training, citizen awareness, public health, infrastructure and cyber security and ensure proper steps are taken to protect high-risk targets.

42. Hurricane Katrina and the following hurricanes Rita and Wilma posed considerable demands on preparedness planning. Secretary Chertoff recently said that one of the biggest lessons learned from Katrina is that preparedness and response capabilities need to be seamless.
 - a. From the Commonwealth of Virginia's involvement and your own review of the response and recovery efforts, what do you believe were the major preparedness "lessons learned" from hurricane Katrina? Hurricanes Rita and Wilma?

ANSWER: My general observation is that we must ensure that plans are not merely paper documents and reflect true capability. This means the full spectrum of officials must be active participants in managing risk so that when events do occur – especially

those of a catastrophic nature – there is a shared and understood vision of what actions are needed, how they must be implemented and who is responsible for what. Secondly, more attention is needed in preparing bigger more complex events such as evidenced with the need for long term sheltering of tens of thousands of evacuees. Finally, a major push is needed to ensure our citizens become more integrated into our strategies for keeping communities, states and the nation safe and secure. Clarifying expectations will be key.

b. What specific goals and strategies would you propose to address these lessons?

ANSWER: It is my understanding the Department has undertaken an extensive review of the preparedness efforts and “lessons learned” from this current hurricane season. If confirmed, I look forward to reviewing these lessons and, in coordination with Departmental leadership, implementing appropriate goals and strategies.

c. What organizations, operations, or policies would you propose to better prepare for catastrophic events?

ANSWER: As noted above, if confirmed I will carefully study the lessons learned and, in coordination with Departmental leadership, determine what specific additions and changes are needed to enhance the Department’s response.

d. What initiatives are needed to make preparedness and response seamless?

ANSWER: Clearly, because as a nation we face unknown and diverse threats, we must have cross-cutting and overarching capabilities that can successfully address multiple incidents or attack and to do so from both the preparedness and response aspect. And, clearly, the Department has sought to implement several initiatives which address both aspects. If confirmed, of course, I will draw upon my experience to assist the Department in determining how to draw these two elements closer together.

43. The Office of Domestic Preparedness has used a capabilities-based planning approach to implement HSPD-8 and its requirement for a National Preparedness Goal. The Goal is to establish a national vision and priorities through measurable readiness benchmarks and targets. The starting point for the Goal is the fifteen national planning scenarios. Most of these deal with terrorist attacks. Consistently applied risk-based geographic tiers are intended to ensure that areas with similar generic risk characteristics are working to achieve and sustain similar target levels of capability.

a. To what extent do you believe the scenarios should be expanded for better coverage of catastrophic natural disasters?

ANSWER:

The National Planning Scenarios are not intended to be exhaustive or predictive; rather, they illustrate the potential scope, magnitude, and complexity of a range of major events, including terrorist attacks, major disasters, and other emergencies. They represent a minimum number of scenarios needed to define a range of potential incidents, as opposed to every possible threat or hazard.

These incidents may differ by cause, but required capabilities frequently are the same. Because terrorist attacks share some common characteristics with natural and accidental disasters, 30 of the 36 capabilities identified on the Target Capabilities List as part of the National Preparedness Goal are all-hazards capabilities.

Entities at all levels of government can use the National Planning Scenarios as a reference to help identify the potential scope, magnitude, and complexity of potential major events. Entities are not precluded from developing their own scenarios to supplement the National Planning Scenarios. While I see no need to expand the Scenarios at this time, revisions may take place in the future.

- b. From your experience in Virginia, what are the major strengths and difficulties of adopting capabilities-based planning?

ANSWER:

Capabilities-based planning is all-hazards planning. The severity of natural disasters over this past year underscores the importance and the strength of an all-hazards approach to national preparedness. Incidents of National Significance take many shapes and sizes, and while we cannot prevent nature from running its course, we can clearly identify tasks and capabilities that will help us to better protect, respond to, and recover from these types of natural disasters.

A GAO analysis, for example, found that the baseline capabilities required for natural or accidental disasters and terrorist acts are similar for response and recovery and differ most for prevention. This finding is a fundamental reason for taking a capabilities-based planning approach to preparedness: with unknown and diverse threats, we must have cross-cutting and overarching capabilities that can successfully address multiple incidents or attack.

- c. What incentives might the directorate offer to encourage interstate groups for capability development (in contrast to regional efforts)?

ANSWER:

Capabilities-based planning enables entities to build capabilities and achieve outcomes as they see fit. A capability can be built with any combination of organized, equipped, and trained personnel. This approach preserves the right of States and localities to meet their

own preparedness needs, while aligning their planning with national-level priorities. I believe the Directorate will support efforts by States and localities to form inter-state groups that enhance regional and national preparedness.

- d. What expectations would you set for your directorate regarding full implementation and sustainability of the National Preparedness Goal?

ANSWER:

The National Preparedness Goal adopts a risk-based, all-hazards approach. The Directorate will use this approach to strengthen national preparedness and ensure optimal use of Federal preparedness assistance.

The Directorate will lead implementation and maintenance of the National Preparedness Goal. It is important to note, however, that appropriate Federal departments and agencies as well as state, local and tribal governments share responsibility of implementing the Goal.

44. At a hearing of this Committee on September 28, we heard from local government officials that governments that had a stronger relationship with FEMA prior to Hurricane Katrina had a better experience with FEMA in the aftermath of the hurricane. How can your office, after assuming the function of preparedness from FEMA, improve its relations with local and state governments and thereby facilitate emergency response efforts?

ANSWER: If confirmed, I will be closely studying how we can best together within the Directorate, with fellow component agencies, and with the Department as a whole to improve our relations with local and state government partners.

45. An August 30, 2005 Washington Post editorial by Eric Holdeman, Director of the King County, Washington, Office of Emergency Management, argues that state and local emergency management offices are confused about how they fit into the national picture of emergency preparedness and response.

- a. What will you do to work with state and local communities regarding the organizational changes at DHS and FEMA to clarify how these changes affect state and local communities?

ANSWER:

Certainly, communication is a key element of effective preparedness and response and, if confirmed, I anticipate working closely together with the state and local communities in constant communication on elements necessary for us to accomplish our joint mission.

- b. How will lessons learned by FEMA in its response to Hurricane Katrina and other disasters be incorporated into the work of the Directorate for Preparedness?

ANSWER:

If confirmed, I am committed to ensuring that the lessons learned by the Department and its components with respect to preparedness and response, and other applicable areas, are incorporated into the work of the Directorate.

- c. What is your opinion of Project Impact at FEMA, and do you have any plans to analyze the lessons learned from that project?

ANSWER:

While somewhat familiar with the Project, if confirmed, I will study the Project more closely and look forward to a discussion with FEMA and its management on that project and the applicability of lessons learned.

Cash Management Act

46. According to some state and local governments, the reimbursement requirements of the Cash Management Act are difficult to abide by for governments, like Michigan, that are facing significant budget shortfalls. The DHS Homeland Security Funding Task Force, the Governor of Michigan and many others have advocated for a waiver.

- a. What is your opinion on the waiver of the Cash Management Act?

ANSWER:

It is my understanding that the Department concurs with the recommendation of the Funding Task Force Report of June 2004, which asked that Congress exempt ODP's grants from the provisions of the Cash Management Improvement Act (CMIA). The waiver of this provision would allow states to draw down funds prior to the actual expenditure of the funds. Many jurisdictions do not have the financial resources to make advance payments, especially for specialized equipment. As well, some municipal jurisdictions require cash-on-hand in their municipal treasuries prior to commencing the procurement process. It is also my understanding that the exemption from the CMIA should help to alleviate some of these issues.

- b. Should it be made permanent?

ANSWER:

It is my belief that a thorough analysis of the impact of the exemption of the CMIA

should be made before any recommendation can be issued. I am told that this is only the second year that the exemption has been in place, and, of course, I cannot speak to the overall impact across the country. The GAO is currently staffing an audit on the effects of the CMIA exemption on DHS grants. That report, in addition to any analysis undertaken by the Department, should outline key findings in this area.

Cyber Security

47. The Directorate for Preparedness will include the Office of Cyber Security and Telecommunications. The threat from cyber attacks and other cyberspace security incidents has risen dramatically in recent years, and many actions have been taken to improve our response to incidents and to work towards reducing vulnerabilities to these threats. The telecommunications portion is intended to address the preparedness communications needs for federal, state, local, and private governments as well as private industry. Responding to communications needs has been a troubled area ever since the September 11 attacks.
- a. What would you recommend as needed key activities to strengthen the federal government's leadership in protecting our nation's critical infrastructures from cyber attacks?

ANSWER:

The identification of an Assistant Secretary for Cyber Security and Telecommunications is the first key step to strengthening the federal government's leadership in this crucial area through increased visibility and leadership, and I commend Secretary Chertoff for making that accommodation in his organizational review. I am confident that the new office will leverage the work of the National Cyber Security Division over the past two and half years as it has taken measures to establish a national cyberspace response system and a cyber risk management framework.

One area of NCSD's achievements is the establishment of the National Cyber Response Coordination Group (NCRCG) in the Cyber Annex of the National Response Plan (NRP). As the principle interagency mechanism for preparing and responding to cyber Incidents of National Significance, the NCRCG is the key area for leadership in bringing to bear the resources of the federal government. Generally, the NCRCG, co-chaired by DHS, DOJ, and DOD, will become an increasingly significant vehicle to strengthen the federal government's role in tracking, assessing, and reducing cyber risk, and enhancing coordinated preparedness for response and recovery.

Partnership with industry is a key element of cyber security efforts. I am committed to help strengthen that partnership by improving information sharing mechanisms between industry and the government for operational and strategic purposes, leveraging the

expertise and experience of the private sector in cyber security efforts, and engaging the private sector in our critical infrastructure protection efforts in the National Infrastructure Protection Plan (NIPP) process. In addition, increasing convergence between information technology and telecommunications makes the integration of those two elements imperative for our leadership and partnership endeavors. And, the new Office of Cyber Security and Telecommunications will also help to address that need. These are just a few of the critical steps being undertaken to enhance cyber security. If confirmed, I am committed to learning where else we can enhance our efforts.

- b. What specifically would you do to make rapid strides in meeting critical communication security needs?

ANSWER:

The Federal government's response to Hurricanes Katrina and Rita exposed several weaknesses in our communications system, but we don't want those issues to cloud our many successes. Notwithstanding the total destruction of the telecommunications infrastructure in the impact area, the NCS and industry pulled together and demonstrated their unique partnership in responding to this disaster. Through the National Coordinating Center (NCC), located within the NCS, the NCS and industry employees worked around the clock with their representatives in the field to provide communications to key officials in the affected area, coordinate security, fuel, staging and access issues between the industry and government at all levels, and ensure telecommunications priority programs such as Government Emergency Telecommunications System (GETS), Telecommunication Service Priority (TSP), and Wireless Priority Services (WPS) were operating as required. I am fully committed to ensuring the long standing partnership between the NCS and the telecommunications industry continues to assure NS/EP communications for the nation through the President's National Security Telecommunications Advisory Committee (NSTAC) and the NCC Communications Information Sharing and Analysis Center (ISAC).

Additionally, it is clear we need to bring all the communications capabilities within the Federal Government, particularly those of member departments and agencies of the NCS, and ESF 2, such as FEMA, DOD, and the Department of Agriculture, to bear on responding to a catastrophe of that magnitude. I will explore the feasibility and desirability of developing additional deployable communications capabilities for support within disaster areas. I also recognize interoperability continues to be a serious issue. While I do not have direct responsibility over interoperability, I will work closely with the SAFECOM program managers within the S&T Directorate to facilitate solutions to this problem. I will also continue to support, as a high priority, continued efforts to reach full operating capability for the Wireless Priority Service (WPS) which proved so valuable during the recent hurricanes.

Finally, I would undertake, through the NCS, an interagency program to assess how new communication technologies can be interfaced with surviving commercial infrastructures. Specifically, how communications “holes” created by a disaster can be “filled” through a common architecture framework. This concept focuses on the application of new technologies to bridge private and public communications needs and capabilities in a disaster.

48. A persistent challenge in trying to organize and manage DHS cyber security programs is ascertaining to what extent cyber security problems and solutions are distinctive and should be addressed by specialized officials and staff separate and independent from those responsible for the security of particular physical infrastructure sectors, and to what extent cyber security problems and solutions can best be addressed by officials and staff who are integrated into the teams responsible for the security of the particular physical infrastructure sectors.

a. How do you believe this challenge should be addressed?

ANSWER:

I understand that DHS has already created the National Cyber Security Division (NCSD) to work collaboratively with public, private, and international entities as part of an overall shared responsibility approach to secure cyberspace and America's cyber assets. To meet that mission, NCSD developed a strategic plan that establishes a set of goals with specific objectives for each goal and milestones associated with each objective. DHS recognizes that cyber security requires coordination across the federal government agencies. As such, the *National Response Plan (NRP) Cyber Annex* has established the National Cyber Response Coordination Group (NCRCG) as the principal federal group for preparing for and responding to cyber incidents of national significance; NCSD co-chairs NCRCG with DOD and DOJ, and NCSD serves as the Executive Agent and point of contact for the group.

- b. Secretary Chertoff recently established a new position of Assistant Secretary for Cyber Security and Telecommunications. What additional changes, if any, in DHS organization and management practice would you propose to improve the Department's ability to address cyber security?

ANSWER:

I support the Secretary's announcement as a strong indication of the Department's goal to further focus the priority the Department and the Administration places on securing the nation's cyber critical infrastructure. If confirmed, I look forward to working with the new Assistant Secretary on this key priority.

49. Our critical cyber infrastructure is subject to attack from a variety of individuals and groups - terrorists, criminal groups, and foreign intelligence services, as well as hackers

and disgruntled insiders.

What do you believe is the relative risk of attack from these or other types of malicious actors, and how does your answer to this question affect the relative priorities that you believe DHS should place on various aspects of its infrastructure protection mission?

ANSWER:

I understand that the National Cyber Security Division (NCSD) is responsible for providing cyber guidance to all sectors and assisting them in understanding and mitigating cyber risk (including cyber infrastructure vulnerabilities) and in developing effective and appropriate protective measures. NCSD has identified two overarching priorities: to build an effective national cyberspace response system and to implement a cyber risk management program for critical infrastructure protection. NCSD incorporated a risk management approach into its effort to better assess the threat and reduce the risk to our national cyberspace. Risk management includes risk assessment based on threat, vulnerabilities, and consequences, as well as efforts to reduce the risk by addressing vulnerabilities before an attack occurs, and mitigating and managing the consequences of a cyber attack that does occur.

50. Do you believe the Department's cyberspace security research and development (R&D) budget is sufficient and appropriate, in comparison to other R&D priorities? What would be your priorities for R&D in the area of cyberspace security?

ANSWER:

If I am confirmed, I will review the funding allocated for R&D related to cyber security and existing policies and priorities. And, further, I look forward to developing further priorities in this area.

Public Information

51. The Critical Infrastructure Information Act (CIIA), enacted as part of the Homeland Security Act, was intended to establish a framework within which infrastructure owners would provide information about security vulnerabilities and incidents to DHS, and under which DHS would use that information in working to respond to incidents and to reduce vulnerabilities.
- a. Do you believe the CIIA has been effective at furthering the purposes for which it was enacted?

ANSWER:

Although I am not fully familiar with this legislation, I understand that the CIIA has furthered the mission of DHS by encouraging the private sector to submit sensitive

critical infrastructure information that DHS has used to further identify vulnerabilities.

- b. What, if anything, do you believe should be done to make the CIIA more effective?

ANSWER:

52. Some have argued that the CIIA establishes a broader exemption from the Freedom of Information Act (FOIA) and other sunshine laws than necessary, and that the accountability of government and infrastructure owners suffer as a result. Others have argued that exemptions from sunshine laws, such as those in the CIIA, will not provide sufficient incentive for infrastructure owners to share necessary security-related information, and that government mandates may therefore be necessary.

- a. What is your opinion of those arguments?

ANSWER:

It is my understanding the CIIA specifically protects sensitive information that is not otherwise publicly available. If confirmed, I look forward to further reviewing this issue to determine if DHS's implementation of the CIIA can be more effective.

- b. What, if anything, do you believe should be done to improve government policy for getting infrastructure owners to share the information related to critical infrastructure security?

ANSWER:

Again, although I am not fully familiar with this legislation, if confirmed, I certainly will review to see how it can be best utilized.

53. As part of our nation's counter-terrorism efforts, much unclassified information that agencies believe is sensitive has been removed from government websites, and DHS and other agencies have otherwise expanded the amount of sensitive but unclassified information that they try to keep out of the hands of the public. Some have argued that these efforts go too far and can be counterproductive, and that keeping the public from learning about security risks and security-related missteps can interfere with oversight and accountability. What do you think of this argument? Generally, what do you believe DHS should do to foster appropriate policies, within DHS and at other agencies, with respect to ascertaining what unclassified information is sensitive and should be kept out of the hands of the public?

ANSWER:

I believe this is a critical issue for the Department, however, I will continue to look into this matter once confirmed. It is my belief that we live in a world where we cannot inform our citizens without also informing terrorists who will use the data to do us harm. That fact inevitably influences the balance we strike in deciding what information to make public.

Critical Infrastructure and Chemical Security

54. The DHS strategy for protecting critical infrastructure includes efforts to foster the sharing of information by infrastructure owners about security vulnerabilities and incidents.

- a. How important do you believe such information sharing is, and how successful do you believe current government policies and efforts have been at achieving such information sharing?

ANSWER:

Information sharing between the federal government and state and local governments and the private sector will help to secure the nation's critical infrastructure. I understand that DHS has implemented numerous programs to share information with the owners and operators of critical infrastructure such as the Homeland Security Information Network and the Sector Coordinating Councils. If I am confirmed, I look forward to further reviewing this important issue.

- b. What, if anything, do you believe should be done to improve the sharing of security-related information by the owners of critical infrastructure?

ANSWER:

As noted above, I understand that DHS has implemented several programs to further information sharing with the owners and operators of critical infrastructure. If confirmed, I look forward to further reviewing these existing programs and examining whether more can be done.

55. On November 2, DHS issued the Draft National Infrastructure Protection (NIPP) Base Plan. The plan "provides the unifying structure for the integration of critical infrastructure/key resources (CI/KR) protection efforts into a single national program" and "identifies how homeland security partners will develop and implement a national effort to protect CI/KR across all sectors." The plan is based on several assumptions. For example, it notes that since it is not possible to protect all assets against every possible terrorist attack, a risk-based approach "driven by intelligence analysis and reporting" is critical to an effective risk mitigation strategy and efficient resource allocation.

- a. From your experience in Virginia, do you believe that current quality of intelligence analysis and reporting is at the level necessary to effectively implement the NIPP?

ANSWER:

Yes, I believe that the current quality of intelligence analysis and reporting is at a level necessary to implement the NIPP. There are many challenges in analyzing and reporting intelligence information. If confirmed, I will work with the Assistant Secretary of Intelligence and Analysis and other organizational elements across DHS to ensure that the Department is reporting appropriate threat information to those infrastructure protection partners who require access and who have appropriate clearance to such information to protect our critical infrastructure and key resources.

- b. What is your assessment of current approaches to sharing intelligence with the private sector who owns 85% of critical infrastructure? What changes would you recommend?

ANSWER:

It is my understanding that the Department's approaches to sharing information with the private sector are working to provide intelligence information to infrastructure owners and operators in critical threat situations. Efficient information-sharing mechanisms and processes are required to ensure implementation of effective, coordinated, and integrated critical infrastructure protection measures. However, information sharing is not an end unto itself. Rather, it must enable both the government and private sector partners to accurately assess events, formulate risk assessments, and determine appropriate courses of action. Similarly, two-way information-sharing mechanisms must enable partners to make informed decisions with regard to short and long-term security strategies, risk mitigation, and operational continuity. All of these decisions must be based on an accurate understanding of the threat, and critical infrastructures and key resources (CI/KR) vulnerabilities and operational characteristics. Furthermore, effective response to terrorist threats and natural and man-made disasters requires rapid coordination across multiple levels of government and industry, often within hours or even minutes. This level of response is only possible by employing a new and robust strategy and associated processes and protocols for information exchange and decision-making. If confirmed, I will assess these approaches to determine if changes are needed.

- c. Have you had any input into the development of the Base NIPP plan?

ANSWER:

Yes, as Assistant to the Governor for Commonwealth Preparedness in Virginia, I was provided an opportunity to comment on the first draft of the NIPP in August 2004.

56. The NIPP Base Plan is the latest of several plans that have been developed, or updated, related to homeland security. The NIPP Base Plan is 161 pages long, and will be followed presumably by several sector specific plans that remain works in progress. The National Response Plan, National Incident Management System, National CI/KR Research and Development Plan, National Preparedness Goal, several Presidential directives and other plans all address key aspects of a national homeland security strategy designed to prevent, protect against, respond to and recover from terrorist attacks. However, these plans will depend on skilled leadership devoted to implementing them. How can our country systematically develop the cadre of federal, state, and local leaders needed to implement these plans effectively? What role do you see for the Preparedness Directorate in this effort?

ANSWER:

57. As we learned in the aftermath of Hurricane Katrina, a critical aspect of preparedness for all-hazards is the ability to quickly recover and provide good services to customers. Businesses that were prepared to take the blow from the hurricane and then implement contingency and back up plans in order to get back up and running in some cases provided critical support to communities before FEMA arrived. After a disaster the restoration of power and communications are likely to be most critical; thus it is absolutely necessary that these and other sectors have the kind of emergency preparedness plans in place to succeed. The NIPP does not appear to explicitly address this concern. While the plan provides a framework for prioritizing, identifying and protecting critical infrastructure and key assets from terrorist attack, it is less clear where the NIPP focuses on continuity of operations in the event of a successful attack or catastrophic disaster. What is the role of contingency planning and continuity of operations plans in overall national preparedness? Do you believe this issue should be addressed more explicitly in the NIPP?

ANSWER:

It is my understanding the NIPP framework is incorporated with State CI/KR protection planning through the DHS Office of State and Local Coordination and Preparedness Federal Grant Program. And, further, that to receive Federal grant funds, States must develop a strategy for preparedness based on DHS guidance and submit it to DHS for review and determination of levels of funding. Starting with the FY2006 grant application guidance, then, CI/KR protection is considered as one of the criteria for evaluating the strategies to determine levels of funding. If confirmed, I look forward to further review of the role of contingency planning and capability and what steps, if any, should be undertaken to address this issue more explicitly.

58. Along with finalizing the NIPP, and ensuring that sector specific plans are developed, the

Under Secretary for Preparedness will have to ensure that DHS's role, and those of other agencies with sector specific responsibilities, are fully implemented; address obstacles to information sharing within and across critical infrastructure sectors; finalize the long promised national asset data base; and, perhaps most importantly, implement common approaches to assessing risk which is necessary to set critical infrastructure and key resource protection priorities across all sectors.

- a. What is your assessment of the key challenges facing our country with respect to protecting critical infrastructure?

ANSWER:

Clearly, attacks on critical infrastructures and key resources could significantly disrupt the functioning of government and business alike and produce cascading effects far beyond the targeted sector and physical location of the incident. Direct attacks could result in large-scale human casualties and property destruction, and also profoundly damage national prestige, morale, and confidence. Attacks using components of the Nation's critical infrastructure and key resources as "weapons of mass destruction" could have even more devastating physical and psychological consequences. Because the vast majority of the Nation's infrastructure is owned or operated by the private sector, one of the key challenges will be to ensure cooperation and coordination between the Federal government; state, territorial, tribal, and local governments; and the private sector to identify and protect these critical infrastructures and key resources. It is my understanding that the Draft NIPP Base Plan establishes a risk management framework and a sector partnership model to drive this coordination. If confirmed, I will work to advance this and other key components of our infrastructure protection program.

- b. What role have you played in protecting critical infrastructure in your various positions in the Commonwealth?

ANSWER: It is not something that is new and in-fact it has been a major area of personal interest for more than 10 years. When I Vice-Chaired the Advisory Panel to Assess Domestic Response Capabilities of Terrorism Involving Weapons of Mass Destruction (1999-2003) I encouraged closer examination of Critical Infrastructure issues by the Panel, which was done. During Y2K I chaired the interstate working group looking at readiness issues for the rollover. In more than 20 years the most notable issues I have dealt with were the result of infrastructure problems – loss of power, water and telecommunications. While these are in many cases, private sector systems, there is an inextricable relationship with the needs of government in advance, during or after a crisis. Consequently, I understand at both the tactical and strategic levels the independent and interdependent nature of critical infrastructure.

- c. How do you respond to concerns that the private sector, which owns 85% of our nation's critical infrastructure, may lack sufficient incentive to invest in securing

key assets, particularly if their competitors are not held accountable for meeting the same standards?

ANSWER:

Clearly, protecting our Nation's critical infrastructure and key resources is a shared responsibility. The priorities for CI/KR protection set forth in the national strategies, statutes, and Presidential Directives identify key areas that must be targeted for risk reduction. These priorities will change over time as the underlying threats change and as the overall level of preparedness improves. Reducing the risks to critical infrastructure will require not only that the U.S. Government apply funding to a range of public and private sector needs, but also that DHS, SSAs, and State, Territorial, tribal, and local governments work closely with private industry to promote the most efficient expenditure of voluntary resources by asset owners and operators. The methods for carrying out this coordination include setting a national agenda for CI/KR protection and creating the framework that enables other security partners to collaborate with one another. DHS believes that good security practices are also good business practices and that most private sector owners and operators of critical infrastructure and key resources will take actions to protect their infrastructure assets and systems commensurate with the level of threat to each infrastructure sector. If confirmed, I will undertake to learn what further changes, if any, should be implemented.

- d. Since natural disasters are inevitable, how important do you believe it is that critical infrastructure policy focus on continuity of operations and contingency plans so that critical assets can be quickly reconstituted after a catastrophe?

ANSWER:

I believe it is critical that the owners and operators of critical infrastructure develop contingency systems to assure the delivery of essential goods and services during adverse conditions whether they are caused by a natural disaster or as the result of terrorism. DHS, through its sponsorship of the NIPP, has initiated an unprecedented effort to support the planning efforts of individual businesses. NIPP structures such as Sector Coordinating Councils and Government Coordinating Councils create opportunities to build private and public sector partnerships that will support coordinated and integrated contingency planning. DHS, in coordination with the other Federal Departments and Agencies with Sector Specific Agency responsibilities, is reaching out to support the private sector in its continuity planning across all critical infrastructure and key resource sectors in order to mitigate the effects of a catastrophic incident and to speed recovery following an incident.

59. The Under Secretary for Preparedness will be positioned to play a key role in developing the Administration's position on legislation to protect the chemical industry from terrorist

attack. According to the NIPP, more than 15,000 U.S. facilities produce, use or store more than 140 chemicals that, when present above certain threshold amounts, have the potential to pose great risk to human health and the environment if released. Indeed, at a recent hearing our committee conducted on this issue, Richard Falkenrath, former Assistant to the President for Homeland Security, stated that of all the possible terrorist targets in our country, the chemical sector is the easiest target that would cause the greatest consequence.

- a. Do you agree with this assessment?

ANSWER:

I believe that not all facilities present the same level of risk. The most scrutiny should be focused on those that, if attacked, could endanger the greatest number of lives, have the greatest economic impact or present other very significant risks. There are many chemical facilities in the United States that pose relatively low risk. As Under Secretary, I will support comparative risk analysis using RAMCAP and other available security assessment tools to measure and address risks within and across multiple sectors so that we can meaningfully compare where within the nation's infrastructure the greatest risks lie.

- b. How do you assess the current efforts of DHS to reduce vulnerabilities in the chemical sector?

ANSWER:

Consistent with Assistant Secretary Stephan's testimony last summer, it is my impression that this Administration has worked hard to enhance the overall security of the chemical sector. Through a combination of sector governance structures, information sharing mechanisms, risk assessment and risk-based planning approaches, programmatic initiatives, local law enforcement enhancements, and voluntary industry efforts, the chemical sector has demonstrated considerable progress in bolstering its aggregate security posture. By developing a comprehensive, risk-based plan for the chemical sector we can expect to close remaining security gaps in this vitally important area.

- c. Do you agree that legislation is needed to improve security at chemical sites. If so, what role do you envision for the Preparedness Directorate in designing and implementing such a program. Please be specific, including what resources the Directorate would need to implement a chemical site security program.

ANSWER:

Yes. I envision that the Preparedness Directorate, through the Assistant Secretary for Infrastructure Protection, will be responsible for implementing and enforcing chemical site security legislation that is based on reasonable, clear, and equitable performance standards.

At this time, I cannot state with specificity what resources would be needed to implement this risk-based, carefully measured regulatory regime, but I commit that the Preparedness Directorate will work to ensure that appropriate resources are directed at implementing regulations in an expedited fashion if and when legislation is enacted.

First Responders

60. Because we cannot predict the date, time and location of a terrorist attack, we have to maximize training opportunities across the nation to as many local first responder agencies as possible. Having said that, there is an infrastructure in place already in every state providing training to the nation's 800,000 first responders. For example, the state fire training academies are accredited by one or both of the national accrediting agencies for fire and emergency services training and have certified instructors who teach according to national standards. How can the Department of Homeland Security take greater advantage of this system, which provides training locally rather than at regional facilities and possesses instructors with practical experience in a wide range of homeland security disciplines?

ANSWER:

I agree with the policy of the Department and the Administration that homeland security is a shared responsibility among federal, state, local, and tribal governments. Part of this shared responsibility is to utilize strengths, and to build, where appropriate, on partner resources. This is not only an efficient and effective use of resources, but good public policy. To this end, I am aware of a significant existing training infrastructure within the states that certainly augments the training provided directly by the federal government. Recognizing this existing infrastructure, DHS strongly encourages states to use existing training academies in the development of their own state-based training strategies, initiatives, and courses. I understand that the Department ensures that these facilities, their instructors, and their curricula meet uniform standards and are consistent in their approach and content through a certification process.

61. Federal first responder grants are a means of achieving an important goal: enhancing the ability of first responders to prevent where possible, prepare for, respond to, and recover from terrorist and other major emergency incidents with well-planned, well-coordinated, and effective efforts that involve a variety of first responders from multiple jurisdictions.
- a. What are the most appropriate and effective means for Directorate for Preparedness to help achieve this goal?

ANSWER:

- b. In working to achieve this goal, what are the most important capacities for first responders to develop first? Why?

ANSWER (a and b):

State, local, and tribal public safety agencies have a vital and central role in protecting the nation and in the prevention and response to either terrorist attacks or other hazards, including natural disasters. Since September 11, 2001, Congress has appropriated billions of dollars to help state, local, and tribal governments to enhance national preparedness.

The federal grant assistance and other expert assistance provided by DHS serves a critical role in these preparedness efforts. DHS provides federal grant assistance to state and local governments to conduct planning, procure and maintain appropriate equipment, conduct adequate training, and exercise the first response community. Additionally, DHS provides expert assistance through various programs, such as direct training courses for first responders and government officials; consultation and guidance on development and execution of exercises; grants management assistance; and myriad technical assistance programs on such important issues as interoperable communications and terrorism early warning systems.

I know that the Secretary and the Administration, as a whole, have strongly encouraged states and localities to adopt regional approaches in their planning and allocation of homeland security resources. Key to this is the understanding that every community cannot build and sustain its own, separate, comprehensive response and recovery capability. Local communities, counties, cities, even states, must build partnerships among their neighbors in order for the national preparedness effort to be successful.

Chief Medical Officer

62. The Directorate for Preparedness will include a Chief Medical Officer (CMO), who will be responsible for coordinating medical issues, and working with the Department of Health and Human Services (HHS) and the Department of Agriculture (USDA), the Centers for Diseases Control (CDC), the Department of Defense (DoD) among other agencies to improve coordination of the federal government's medical preparedness efforts.
- a. The CMO will require support staff with a thorough understanding of the medical, management and communications issues that occur during a natural or man-made disaster. What budgetary, staff and resource allocations will be afforded to the CMO?

ANSWER:

Secretary Chertoff created the position of Chief Medical Officer (CMO) in mid-July as part of the Second Stage Review process. It is my understanding that prior to the Secretary's Second Stage Review, DHS had no centralized medical structure to coordinate medical preparedness activities inside DHS or with other Departments in the Administration and the Homeland Security Council.

Prior to the CMO's arrival after Labor Day, the DHS budget staff and management made a good faith effort to determine the resources necessary to carry out his mission. I understand the CMO was given a budget of \$2 million and an allocation of 10 FTE's. I am told that over the past three months, the CMO has identified key medical issues as they relate to DHS's role in preparedness and homeland security.

I know that because of the critical role that the Secretary expects the CMO to play in preparedness, he has instructed that the CMO be given all the support necessary to accomplish his mission. I understand the view of the CMO's mission has matured significantly since he arrived and worked out an organizational structure that addresses critical medical objectives. I am certain that as the demands and expectations grows, the CMO will be given the resources to get the job done.

- b. How is the current CMO working with HHS to assure the integrity of the nation's disaster health response? What are DHS and HHS respective roles in light of ESF#8 of the DHS National Response Plan, which gives command and control to the Office of Public Health and Emergency Preparedness (OPHEP) at HHS instead of to the Directorate? How specifically would the CMO at DHS offer coordinating support to OPHEP in the event of a disaster such as a small pox attack or avian flu pandemic?

ANSWER:

I understand that the Chief Medical Officer, through an Operations and Response function in his office, will help ensure that assets are in place to support medical response under the National Response Plan. And that this part of the CMO's function requires close collaboration with our Federal partners, most notably HHS. The CMO's goal is to ensure that DHS are aligned to support Emergency Support Function 8 under the National Response Plan, the Interagency Incident Management Group, and the command centers of both Homeland Security and HHS. In our work, we must also be clear that responsibility for the Nation's health belongs to Department of Health and Human Services. In a time of disaster, whether caused by nature or man, the Department of Homeland Security is responsible for coordinating response and deploying Federal government assets. I understand that Secretary Chertoff and Secretary Leavitt work closely to ensure that there is no confusion when disaster strikes, whether it be an Avian

Influenza pandemic or whether it's a chlorine tanker spilling its contents in a community. The presence of the CMO in DHS gives the Secretary expedited and unfiltered medical information by which the Secretary can make immediate well informed decisions.

- c. How is the CMO currently working with other federal agencies such as the USDA, CDC, NIH, and DOD to coordinate a national health response in times of disaster? What routes of communication exist between these entities and is there a plan and/or memorandum of understanding that exists between them?

ANSWER:

I understand that since the CMO reported for duty in September, he has been focusing on preparation for the likelihood of an avian influenza pandemic. This is a public health and medical issue that many of us, both in and out of government, believe could have devastating effects in the United States and around the world. In this regard, he has been working very closely with his colleagues at the Department of Health and Human Services (HHS), the U.S. Department of Agriculture, and the Homeland Security Council to plan for the government's response to contain this disease and protect our Nation's critical infrastructure.

63. The National Disaster Medical System (NDMS) is a national cadre of volunteer health professionals under the control of the Chief Medical Officer at DHS. It appears likely that in the event of a bioterrorism attack or a nationwide pandemic that the NDMS will be overwhelmed and will require help from other health professionals and partners.
- a. What is your understanding of the current size, organization and capacity of the NDMS?

ANSWER:

It is my understanding that, as a point of clarification, NDMS is not under the control of the DHS Chief Medical Officer. I understand, however, that NDMS is a section within the Operations Branch of the Federal Emergency Management Agency's Response Division. I am told that NDMS is currently comprised of 104 teams and more than 9,000 personnel. With respect to organization, I am told that the backbone of NDMS is the Disaster Medical Assistance Team, or DMAT. A DMAT is a group of professional and para-professional medical personnel (supported by a cadre of logistical and administrative staff) designed to provide medical care during a disaster or other event. Each team has a sponsoring organization, such as a major medical center, public health or safety agency, non-profit, public or private organization that signs a Memorandum of Agreement (MOA) with the DHS. The DMAT sponsor organizes the team and recruits members, arranges training, and coordinates the dispatch of the team.

Concerning capacity, I understand that the NDMS system reports the following capabilities:

Outpatient Facilities	5,000 patients per day
Augmented Medical/Surgical Wards	1,400 patients per day
Treatment/Limited Holding Capacity	4,500 outpatients/224 inpatients per day
Casualty Collection Centers	4,200 patients per day

- b. How do you think other health providers such as EMS providers or doctors and nurses not part of the NDMS can be utilized to more fully integrate our homeland security preparedness activities? What role can the Directorate for Preparedness play in promoting such integration?

ANSWER:

I believe that the Department must assure that EMS experts are fully integrated into State and local Homeland Security planning, recognizing that EMS providers are essential parts of Federal, State and community preparedness and response. And, I believe that the Preparedness Directorate will also work with the Department of Transportation and the Department of Health and Human Services through the newly authorized Federal Interagency Committee on Emergency Medical Services (FICEMS), as well as State and local EMS organizations and other medical professionals to: a) develop EMS-specific standards for all-hazards preparedness, and b) help facilitate a nation-wide EMS system needs assessment, which has never been done. These actions should serve to better align EMS system needs with the National Preparedness Goal.

- c. Do you believe that additional support can and should be provided to other non-NDMS health professionals such as to EMS personnel without simultaneously diminishing support for other first preventers and first responders? Please explain.

ANSWER:

Consistent with the President's budget and the nation-wide EMS system needs assessment, there should be support for improvements in the quality of EMS preparedness and response. Our data shows that EMS has not been funded to the levels of other first responders to this point. Our funding decisions for first responders, including EMS personnel, will be based on threat-based needs of communities. We will encourage close cooperation among the members of the EMS and Homeland Security communities to ensure maximum benefit for all investments.

64. According to ESF#8 of the National Response Plan, the NDMS is expected to play a key role in the evacuation of the sick and injured for treatment. The evacuation of the

medically most vulnerable must be a priority in any serious disaster response system.

- a. What is the capacity of the NDMS to evacuate victims of disasters as well as special needs populations such as the sick and elderly from hospitals and from long term care facilities which may be threatened or compromised by a natural disaster or other event?

ANSWER:

I understand that, operating as part of NDMS, there are 66 Federal Coordinating Centers (FCCs) that recruit hospitals and maintain local non-Federal hospital participation in NDMS; coordinate exercise development and emergency plans with participating hospitals and other local authorities in order to develop patient reception, transportation, and communication plans; and, during system activation, coordinate the reception and distribution of patients being evacuated to the area.

- b. It seems likely that, in order to carry out its responsibilities, NDMS might have to partner with DoD, which has the transportation equipment, training, and personnel to sufficiently move large numbers of the sick. What communication networks, plans or memoranda of understanding currently exist between the Directorate and DoD in this regard?

ANSWER:

I understand that at any disaster site, patients will be stabilized for transport. In most cases, patients will be evacuated by the Department of Defense (DOD) aeromedical evacuation system. Patients will be regulated to FCC areas. At the airport of the NDMS reception area, patients will be met by a local medical team that will sort, assess, and match those patients to participating hospitals, according to procedures developed by local authorities and the local area's NDMS Federal Coordinating Center. Patients will be transported to participating hospitals using locally available ground and air transport. With respect to plans, and memoranda of understanding, if confirmed, I will certainly learn more about what arrangements are already in place. And, in addition, to determine what additional measures may be necessary.

65. In times of the disaster normal lines of communication are often disrupted.

- a. One of the key concerns of NDMS personnel working during the Katrina disaster was personal safety and protection of essential resources including medical supplies, food and water. How will the Directorate assure safety of health professionals, health facilities and their resources? What are the current plans that address the need for health first responder personnel and asset protection?

ANSWER:

It is my understanding that force protection has not been part of NDMS. However, the recently-appointed DHS Chief Medical Officer has assumed responsibility for DHS health and medical mission support. Discussions are in process with members of the Medical Response Branch of ICE as well as other tactical medical and force protection assets in order to develop actionable, interoperable plans for assuring the safety of health professionals and their resources.

- b. Communicating accurate and timely public health messages to the media, federal, state, and local governments, and to the American public will be extremely important in the event of a disaster as a way of tempering panic, helping people understand how to protect themselves, and increasing the likelihood of smooth service delivery and supports. What efforts has DHS initiated to plan for communications? How has HHS been integrated into these efforts? How is the CMO integrated into communication planning groups at DHS?

ANSWER:

I am told that the CMO recognizes the value of speedy and accurate communications in time of crisis, whether is it one for which citizens have adequate warning, such as with a hurricane, or a terrorism attack. The DHS communications specialists work very closely with their counterparts in HHS to ensure that the public does not get mixed or garbled messages.

One of the major values gained from the Secretary's 2SR is that all the elements of preparedness are under one directorate umbrella. Our management team at the Assistant Secretary level meets regularly to discuss issues that face DHS and the Preparedness Directorate. The management team is a vehicle by which department, directorate, and agency communications can be discussed – all a part of a unified management agenda.

- c. Conversely, DHS must receive accurate and timely communication from state, local and other federal agencies on the ground so that it can coordinate a mutable but effective response to health threats. How is the directorate currently organizing its lines of communications among agencies from all levels? Are there plans or memorandas of understanding that assure DHS will be contacted at the beginning or during key points in an event of national significance?

ANSWER: As noted above, the management team at the Assistant Secretary level meets regularly to discuss issues that face DHS and the Preparedness Directorate. It is my understanding that the Directorate is currently in the process of organizing these lines of communication. If confirmed, I look forward to leading in the finalizing of these plans, as well as to determining what plans and/or memorandas of understanding may be necessary.

66. The CMO under the Directorate plays a key role in the administration of Bioshield, a \$5.3 billion dollar effort on behalf of the federal government to develop and procure countermeasures against agents of terrorism

- a. What is your current understanding of the effectiveness of Bioshield? In one and a half years, there have been two contracts awarded. Is this number appropriate given the technicality and complexity of doing threat assessment and research and development in this field?

ANSWER:

It is my understanding BioShield has made good progress for the short time it has been in effect. I am told that Material Threat Determinations have been made for the four major threats of greatest concern: anthrax, smallpox, botulinum toxin, and radiological-nuclear. Procurement actions have been taken for the current and second generation anthrax vaccines, anthrax therapeutics and a pediatric formulation of potassium iodide. In addition, I understand HHS is in the midst of the procurement process for a third generation smallpox vaccine, botulinum anti-toxin, and radiological-nuclear countermeasures.

- b. How does the Directorate currently work with OPHEP? To administer Bioshield?

ANSWER:

It is my understanding DHS works closely with OPHEP. I am told that the S&T Directorate, in partnership with the DHS Office of Intelligence, conducts the Material Threat Assessments, which (a) serve as the basis for the Secretary of DHS' decision on whether or not to make a formal Material Threat Determination for that agent, and (b) which also provide estimates of the number of individuals that might be exposed in a plausible large scale attack – an important consideration in forming HHS procurement requirements. Once a Material Threat Determination is issued, HHS has the responsibility for determining whether additional medical countermeasures are needed and, if so, for pursuing them under BioShield. In this process, they are advised by the WMD Medical Countermeasures Committee, which is co-chaired by HHS, DoD and DHS.

- c. Does the Directorate and CMO at DHS have the medical and public health expertise to effectively administer Bioshield? What current expertise does the Directorate possess in terms of number of science, medical and public health personnel?

ANSWER:

It is my understanding that the CMO office is a new office and is in the process of building a foundation to develop, initiate, and effectively administer a number of programs. I am told that they currently work very closely with the Science and Technology Directorate, Biocountermeasures Portfolio which currently works very closely with HHS in a collaborative manner to effectively administer bioshield related activities. As such, DHS collectively does have the medical and public health expertise to effectively administer Bioshield.

- d. What is the process which the CMO works with OPHEP to devise the list of terrorism countermeasures to develop and procure? How does the CMO prioritize the list?

ANSWER:

It is my understanding that the CMO is currently not involved in this process at the current time. Instead, I understand that DHHS/OPHEP currently works in collaboration with S&T Biological Countermeasures Portfolio to execute this initiative.

- e. What is the process by which the private market learns about the Directorate's countermeasure priorities? How in turn do these entities contact the Directorate to demonstrate their capacity to fill the nation's countermeasure requirements?

ANSWER:

It is my understanding that DHHS is the lead agency and currently oversees all aspects of countermeasure requirements. The CMO's office has been tasked to develop partnerships with Federal, State, Local and Private preparedness communities to identify and prioritize countermeasure priorities and work together to complete risk and threat assessments, plan development, implementation, the plan execution, exercising and consequential plan evaluation and revision.

- f. What is the process by which a private company is awarded a Bioshield contract? How is the integrity of the selection process assured?

ANSWER:

It is my understanding that DHHS is the lead on this activity and currently leads all aspects of this. And, further, contract selection follows a Federal standardized and formal process that is adhered to by all agencies. This strict process is followed by all federal agencies to assure a fair and equal selection.

- g. How does the Directorate support and oversee the private entities who have been awarded Bioshield contracts?

ANSWER:

It is my understanding that the Directorate does not oversee the private entities who have awarded BioShield contracts. Instead, I am told that this is the responsibility of HHS.

Rail and Transit Security

Since 9/11, we have seen a significant level of attention dedicated to the security of the country's aviation systems. For example, the U.S. Government has spent over \$14 billion to help secure our aviation systems. Unfortunately, the federal government has not dedicated anywhere near the same level of attention to or investment in securing our mass transit and rail systems. The American Public Transportation Association says that \$7 billion is needed to protect the country's rail and mass transit systems, but the federal government has spent around \$400 million over the last three years on the security of the country's mass transit and rail systems, and the FY06 Homeland Security Appropriations package provides \$150 million for rail and transit security. When the bill was being debated on the floor of the Senate, two amendments, each of which would have provided over \$1 billion for mass transit security, were rejected.

- a. Do you believe the current level of federal funding for mass transit and rail security is sufficient?

ANSWER:

I believe the President's Fiscal Year 2006 Budget reflects the Department of Homeland Security's most critical needs. Its my understanding the Department, primarily through the Transportation Security Administration (TSA), has focused the majority of its funding and efforts towards what has been considered the largest and most consistent potential threat - attacks on our aviation system. At the same time, TSA has been working to improve security in other modes of transportation. The Nation's transportation system is vast and complex, but only in aviation security is the Federal role direct and pre-eminent. For that reason, the Department should continue to work with State, tribal, local, regional and private partners to help secure our transportation system.

- b. What level of funding for mass transit and rail security would you recommend?

ANSWER:

As noted above, I believe the President's Fiscal Year 2006 Budget reflects the Department's most critical needs in this area.

68. The terrorist attacks on the London Underground this summer confirmed the lessons we should have learned from the bombings of the mass transit and rail systems in Madrid, Tokyo, Moscow, and Israel: that securing U.S. mass transit and rail systems are more

deserving of the federal government's focus. But Secretary Chertoff has indicated that while mass transit and rail systems need more security, the brunt of that responsibility should lie with the state and local officials who run those systems, and not with the federal government.

- a. In your view, what role should the federal government relative to state and local governments play in securing U.S. mass transit systems?

ANSWER:

The responsibility for securing our nation's transportation system is a shared one between federal, state, and local governments and private industry stakeholders. Both public and private stakeholder investment in security is both appropriate and expected. Currently, the federal government is providing funding, in the form of security grants, to help ameliorate the cost borne by the private stakeholders. It is my belief the Transportation Security Administration (TSA) should continue to assist system operators identify their security risks through: (1) security assessments, both government-facilitated and through use of self-assessment tools, (2) compliance efforts, and (3) through cooperative partnerships with industry associations and operators to develop effective and cost-efficient mitigation strategies. I understand that TSA, in support of the Department of Homeland Security's (DHS) Office of State and Local Government Coordination and Preparedness (SLGCP), has provided transportation security subject matter expertise in support of the Urban Area Security Initiative (UASI) and other competitive grant programs SLGCP administers for security in surface modes of transportation, including ports, trucks, busses, rail (freight and passenger), and mass transit.

- b. Do you believe the federal government needs to expand its attention to and investment in the security of the country's mass transit and rail systems?

ANSWER:

If confirmed, I will certainly look further into this matter. As noted above, however, there is a shared responsibility in this area between the federal, state, and local government and private stakeholders.

- c. Should the open nature of mass transit and rail systems, as opposed to the closed nature of aviation systems, have any bearing on the extent to which the federal government should bear responsibility for closing those systems?

ANSWER:

I believe that the fact that mass transit is not a closed system doesn't necessarily weaken

the federal government's role in protecting mass transit passengers, but it does pose a fundamental challenge – what can be done to protect mass transit that won't make mass transit unusable? As for the question of the federal role, the responsibility of securing our nation's transportation systems is a shared one, and the size of the federal share varies. Only in the area of aviation security is the Federal responsibility truly direct and exclusive. In other cases, the federal government has focused on assisting State, tribal, local, regional and private partners who have more direct responsibilities (and sometimes better ideas) for securing our transportation systems

69. Following the London Underground bombings this summer, the New York Times reported that the countermeasures in place to secure U.S. mass transit systems are "low-tech." Canine teams, for example, appear to be the Transportation Security Administration's best available technology for detecting explosives. The canines come with significant limitations, apparently working in short shifts of less than an hour at a time, and they are only able to cover so much ground within a station, train, or airport. What steps would you recommend DHS take toward the development and deployment of high-tech solutions to transportation security challenges?

ANSWER:

I understand that DHS/IP and S&T are continuing to work together on prioritizing the short-term, mid-term, and long-term technical solutions to Improvised Explosive Device (IED) detection in mass transit systems. In the meantime and foreseeable future, canine detection teams will be the most effective tool for detecting explosives. It is also my understanding that, currently, DHS is working with other federal agencies, including TSA, to establish baseline standards for canine detection teams and increase the number of teams (including those that are trained to detect peroxide-based explosives). In the future, more highly technical and sophisticated detection systems will be employed to counter this threat.

I am told that there are advantages to canine teams over technical equipment (for example: surge capability, reliability, flexibility, and mobility). In the future, the reliability rates of technology solutions will mature to match the reliability rates of canine detection teams, and they will both become part of the combined solutions for increased reliability in IED detection. (For specific technical equipment description, need to contact S&T). If confirmed, however, I will undertake to understand what other steps, if any, DHS should take toward in further development and deployment.

70. Security experts have pointed out that if rail cars containing extremely hazardous chemicals were to explode near a densely populated area, hundreds of thousands of lives could be lost. Such rail cars on one line regularly pass by the Capitol on the Second Street and E Street SW bridge. Therefore, the consequences of this sort of an attack could be catastrophic for the residents, tourists, and working people of Washington, including many of the nation's leaders.

- a. What steps are needed to secure terrorist targets from a terrorist attack on freight rail cars carrying hazardous materials in proximity to those targets?

ANSWER:

It is my understanding that a DHS / DOT working group is studying many aspects of the problem. The group is conducting studies of rail corridors in high-threat urban areas; ways to enhance the ability of rail cars to withstand attack; improving compliance with security plans; developing protocols for protective measures; establishing communication standards on rail car tracking systems; and requiring improvements for rail car security during storage. If confirmed, I will certainly seek to learn more about ways to address this serious issue.

- b. Should railroads re-route their trains, carrying hazardous materials, away from terrorist targets to reduce the risk to those targets?

ANSWER:

I am told that the task force described above is comprised of DHS (IAIP and TSA), the Federal Railroad Administration (FRA), the Pipeline and Hazardous Materials Safety Administration, and affected stakeholders, including the local first responder community, local government, and railroad owners and users (VRE, Amtrak). I also understand that DHS, along with FRA and railroad owners, have done numerous, extensive briefings for congressional staff on their efforts to strengthen the DC rail corridor against terrorist attacks. If confirmed, I will undertake further study on this issue. It is my understanding, however, that, because it would be impossible to re-route hazmat to avoid all communities, the Department has no current plans to mandate re-routing. Instead, DHS intends to continue its risk management approach to help prioritize limited resources.

- c. Would you require railroads to re-route trains, carrying hazardous materials, away from terrorist targets to reduce the risk to those targets?

ANSWER:

As noted above, it is my understanding, however, that, because it would be impossible to re-route hazmat to avoid all communities, the Department has no current plans to mandate re-routing. Instead, DHS intends to continue its risk management approach to help prioritize limited resources. If confirmed, I will certainly study this issue further.

Interoperability

71. The tragedy of 9/11 brought increased national attention to the inability of first responders to communicate effectively when responding to attacks and other incidents.

Achieving communications interoperability is one of the high priority “essential capabilities” that DHS has identified to implement the National Preparedness Goal. It has also been identified as a top-priority by state homeland security directors. Since 9/11, the Department has undertaken several initiatives to address this critical problem, including creation of the Office of Interoperability and Compatibility and the Interoperable Communications Technical Assistance Program (ICTAP). However, there is still concern that, at the current pace, it will be many years before we have achieved the level of interoperability necessary to protect the American people. Consequently, the Chairman and Ranking Member of the Committee have introduced legislation, the Assure Emergency and Interoperable Communications for First Responders Act (S.1725) to provide additional resources, promote research and development, and strengthen federal leadership in this vital area.

- a. If you are confirmed, what will you do to ensure that achieving communications interoperability for our nation’s first responders is an urgent priority for DHS?

ANSWER:

It is my understanding that achieving communications interoperability has been a significant priority for DHS. And, if confirmed, I look forward to moving forward even more aggressively in this area. It is my understanding that since September 11, 2001, significant progress has been made to improve communications interoperability for the public safety community and it continues to be a national priority, identified both in Homeland Security Presidential Directive-8 on national preparedness and also as a capability-specific priority supporting the achievement of the three principal priorities of the National Preparedness Goal. Consistent with this, interoperable communications equipment has been an allowable use of the homeland security grants offered by G&T since the inception of the Department. I understand that use of these grant funds is tied to the goals and objectives identified in each state or urban area homeland security strategy.

I also understand that in 2001, SAFECOM, a communications program of the DHS Office for Interoperability and Compatibility (OIC), was established as a Presidential Management Initiative and charged with strengthening interoperability at all levels of government by coordinating Federal programs, initiating a comprehensive standards program, and developing a national architecture. In 2004, the Department then established the OIC within the Science and Technology Directorate’s Office of Systems Engineering and Development to further strengthen and integrate interoperability and compatibility efforts to improve local, tribal, state, and Federal public safety preparedness and response. I understand that G&T established an interoperable communications technical assistance program (ICTAP) to ensure that these funds are maximized by the grantees. I also am aware that G&T has worked closely with the SAFECOM program to incorporate standard grant guidance on interoperable communications equipment into its application kits. While much has been done, much more remains to be done. And, if confirmed, I am certain the Preparedness Directorate will work closely with OIC, the

Department, the Administration, and this Congress to continue to advance communications interoperability and ensure it remains a priority.

- b. What do you consider a realistic time table for achieving an acceptable level of interoperability for first responders across the country? What is the Department's current time table?

ANSWER:

It is extremely difficult to realistically estimate the amount of time it will take to fully achieve communications interoperability. In short, it is my understanding that, while there are a number of significant steps that can and are being taken by the Department to meet emergency interoperability requirements, much remains to be done to accomplish all of the public safety interoperability goals. It is my understanding that, when completed, the National Interoperability Baseline, described below, will help to provide a more realistic timetable for achieving communications interoperability. If confirmed, then, I look forward to further reviewing this issue and working with others within the Department to determine how we can further expedite this process and work toward the development of a sustainable but rapid timetable.

- c. What level of resources do you believe is necessary to achieve this objective? What is the Department's current estimate of the amount of resources that will be needed to reach this objective?

ANSWER:

It is my understanding that according to a 1998 Public Safety Wireless Network (PSWN) study, the cost of replacing existing land mobile radio systems was roughly \$18.3 billion. However, I am told that there is more recent testimony provided by the Government Accounting Office (GAO) which suggests the cost is even greater.

I understand that through its OIC and SAFECOM program the Department is currently developing the National Interoperability Baseline, which will provide a measurement of the current state of public safety communications interoperability across the nation. Once complete, this baseline will provide a statistically significant, quantitative measurement of the current state of public safety communications interoperability across the nation. It is my understanding that once the Baseline Study is complete, the Department will have a greater understanding of the resources needed and the current level of interoperability across the nation. If confirmed, I look forward to further reviewing this issue.

- d. How important is it that DHS complete and publish a national strategy as well as a national architecture for interoperability, as called for in the ICOM Act?

ANSWER:

I am informed that the Department considers the creation of a national strategy to improve interoperability and the creation of a Public Safety Architecture Framework (PSAF) as vital to the nation's homeland security and its first responders. I also believe that the development of a national strategy to improve interoperability is vital to the nation's homeland security and its first responders. If confirmed, I will ensure that G&T works with SAFECOM in the creation of a national strategy guided by the input of local and regional public safety officials and will use its programs to assist State and locals to implement the strategy. It is my understanding that elements of this strategy emphasize governance, consensus standards, interoperable technology, and coordinated training/exercises.

- e. What is the Department's current capacity to fund innovative pilot programs designed to evaluate more cost efficient and spectrum efficient methods of achieving interoperability?

ANSWER:

I understand that the Department has and will continue to ensure funding is available to work on innovative pilot programs to enhance interoperability across the nation. I am aware that G&T distributed over \$2.5 billion to States and local jurisdictions to support preparedness in fiscal year 2005. In using this funding, I understand that G&T encourages States to support innovative programs designed to achieve efficient methods of interoperability. In addition, through the ICTAP program, G&T provides free technical assistance to States to help solve challenging interoperable communications issues. If confirmed, I will further review this important issue.

- f. What should DHS be doing to foster the development and adoption of interoperable systems for sharing other kinds of data beyond voice and radio communications – for example, text messages, photographs and video – that can be vital in assisting first responders?

ANSWER:

It is my understanding that the Department recognizes that voice communications is only one element of interoperability, especially as the technologies that support both voice and data converge. I am told that the Science and Technology (S&T) Directorate signed a Memorandum of Agreement with the Federal Emergency Management Agency (FEMA) authorizing the transfer of the Disaster Management (DM) program from FEMA to S&T to work in close collaboration with OIC.

- g. Do you believe that the many problems with communications during Hurricane Katrina reveal serious flaws in our current approach to this issue? If so, what are they and what do you recommend that the country do differently?

ANSWER:

It is my understanding that the lack of state, local, and federal public safety agency communications after Hurricane Katrina was an *operability* rather than an interoperability issue because towers were damaged or destroyed and emergency power back-up to infrastructure sites (mainly towers) failed. It is my belief that Hurricane Katrina demonstrated that in the absence of a reliable network across which responders within an agency can effectively communicate, interoperability is both irrelevant and impossible. Strengthening and ensuring basic level public safety communications capabilities, therefore, is the first task, but achieving interoperability can only strengthen operability.

- h. What do you see as shortcomings in the current system of funding with regard to communications interoperability?

ANSWER:

It is my understanding the current system of funding with regards to communications interoperability is very robust. In fact, approximately \$1.5 billion in FY 2004 and FY 2005 SHSGP and UASI funds were dedicated to interoperable communications. I understand that one of the primary issues in the current system of funding is that different communities and jurisdictions have their own funding schedules and budget priorities which can often conflict with one another. Furthermore, I understand funding is usually provided based on individual agency rather than regional needs and spending decisions are often made based on outdated strategies that do not consider the need for interoperability. I am told that all of these issues need to be addressed to improve the current system.

That said, I also understand that one of the seven National Priorities from the National Preparedness Goal is to strengthen Interoperable Communications capabilities; therefore as the Goal is implemented, capabilities and programs related to interoperable communications are also implemented and strengthened. Additionally, all States are required to review and evaluate their current program capability levels related to the National Priorities. As a result of this review, States will determine their priorities and next steps in implementing and/or enhancing communications interoperability. Furthermore, the FY 2005 HSGP established the requirement that all DHS-labeled Urban Areas, as well as State-designated Urban Areas, develop a Tactical Interoperable Communications Plan (TICP). This requirement carries on through FY 2006, requiring that all Urban Areas meet the TICP development and validation requirements in order to receive HSGP funding. TICP facilitates the review and assessment of interoperable communications capabilities and the resulting identification of gaps and deficiencies (need). If confirmed, I look forward to learning more about this issue and the necessary improvements to the current system.

- i. What is your opinion of funding communications directly and separately from other homeland security funds?

ANSWER:

I believe it is crucial that communications funding is allocated in a coordinated fashion to ensure that limited Federal resources are used most efficiently. I understand that ODP has created a coordinated approach to communications funding by incorporating OIC's grant guidance into three of its grant programs, including the State Homeland Security Grant Program, the Urban Areas Security Initiative Grant Program, and the Law Enforcement Terrorism Prevention Grant Program. If confirmed, I am committed to learning more about which method of funding is most effective.

Intelligence and Information Sharing

72. As part of the Second Stage Review, the Secretary decided to elevate DHS's office of Information Analysis and to designate the Assistant Secretary of Information Analysis as the Chief Intelligence Officer who is charged with, among other things, providing intelligence to state and local officials. In your position as Assistant to the Governor of Virginia for Preparedness, you have presumably been a customer for intelligence and information about threats generated by DHS and other agencies.

- a. What advice, based on your experience, would you give to the Department's Chief Intelligence Officer about how best to discharge these critical responsibilities?

ANSWER:

I have tremendous respect for Charlie Allen, the Department's Chief Intelligence Officer, as one of this nation's most highly regarded intelligence professionals. While I can not speak for him, I believe we share a commitment to ensuring that this Department, including its intelligence, is focused on supporting those who are securing our homeland in the Federal government, in State and local governments, in law enforcement and in the private sector.

- b. Secondly, as Under Secretary for Preparedness, you will also generate information that state and local officials need in order to enhance preparedness for all hazards. How do you believe this aspect of your work will intersect with the Chief Intelligence Officer's responsibilities?

ANSWER:

As we prepare our nation against a variety of threats, I will work closely with the Chief Intelligence Officer to ensure that our efforts are mutually reinforcing. As mentioned above, the partnership between the Office of Intelligence and Analysis (I&A) and one of

the Preparedness Directorate's components, the Office of Infrastructure Protection, in the Homeland Infrastructure Threat and Risk Analysis Center (HITRAC) demonstrates how intelligence can support domestic preparedness activities. I&A is also supporting other efforts within Preparedness, such as the National Biosurveillance Integration System (NBIS), and I believe such efforts will only grow as Preparedness fully integrates its activities.

National Capital Region

73. What relationship do you envision between the Directorate of Preparedness and the Director of the Office of the National Capital Region Coordination (ONCRC)?

ANSWER:

Three important factors will contribute to what I envision to be a very close relationship between the Directorate of Preparedness and the Director, NCRC. First, as with all components of the Preparedness Directorate I will seek relationships with my senior leadership team that will foster a coordinated effort based on the priorities established by the President, Secretary and Department leadership.

Secondly, I understand the importance and attention the Congress has given the NCRC and I will seek to develop the relationship between the Preparedness Directorate and the NCRC so that the NCRC has the proper tools to be responsive to the issues and concerns expressed by Congress.

Finally, as an active member of the National Capital Region's Homeland Security Senior Policy Group (SPG) for the past four and a half years, I have a very personal commitment to the work being done in the NCR and the success of the NCRC. I have worked with the Director, NCRC and his staff since the creation of the Office. I am intimately familiar with their priorities, issues and challenges. The Director, NCRC will be a key member of my senior leadership team and an important component of the Preparedness Directorate.

74. Some have suggested that ONCRC could serve as a model for other areas where multiple jurisdictions must be involved in coordinating homeland security efforts. As a member of the National Capital Region's Homeland Security Senior Policy Group, do you agree? Please explain.

ANSWER:

I agree that the NCR can serve as a model for other areas where multiple jurisdictions must be involved in homeland security efforts. The NCR has an extremely complex web of jurisdictional authority and autonomy that must be coordinated to achieve a common purpose – preparedness. There is no better test-bed for multi-jurisdictional coordination than the NCR.

75. What was your personal involvement in the development of the National Capital Region Strategic Plan, which was issued on October 31, 2005? Did you personally review and approve the final plan?

ANSWER: I was both intimately involved and personally supportive in the development of the NCR strategy. It is an important document that outlines the road ahead for the NCR in terms of the full realm of preparedness, prevention, deterrence, response, and recovery. The most important element of the plan clearly is the process used to bring multiple stakeholders- many with divergent opinions- together to assess current status, define desired end-state and to quantify actions needed to achieve progress. Given the wide variety of perspectives this process not only produced a plan but also further strengthened relationships and partnerships.

76. Some members of Congress and others who work within the National Capital Region have expressed concerns that the ONCRC will suffer as a result of the proposal to move it to the Preparedness directorate because it will no longer report directly to the Secretary. Given the specialized focus of ONCRC and the unique need the area it serves, how do you to ensure that ONCRC maintains its ability to function and focus on its unique goals and responsibilities to the Capitol region?

ANSWER:

As a member of the NCR Senior Policy Group for the past 3 plus years I have been very engaged the NCR and, as mentioned earlier, worked very closely with the ONCRC. I have developed a strong understanding for the need or the region and the unique challenges that are presented by the region. The ONCRC is vital to the continued progress of the region to become safer and more secure. I will ensure that ONCRC maintains its ability to function and focus on its unique goals and responsibilities in the Capital region by committing the full support of the Preparedness Directorate to the success of its mission.

If confirmed as the Under Secretary I will, of course, be in a different position relative to the NCR, however, my commitment to the NCR and the success of the ONCRC will remain strong.

77. After a review of the region's use of grants, GAO reported that the NCR faced three interrelated challenges symptomatic of issues you will face as Undersecretary of Preparedness: the need for (1) preparedness standards; (2) a coordinated region-wide plan to establish first responder performance goals, needs, and priorities, and assess the benefits of expenditures in enhancing first responder capabilities; and (3) a readily available, reliable source of data on funds available to first responders in the NCR and their use. In testimony before the House Government Reform Committee in June 2004,

you agreed with GAO's statement and report recommendations. However, in your July 2005 testimony before the Senate Homeland Security and Governmental Affairs Committee, you opposed obtaining regular reports, saying it was an unnecessary bookkeeping exercise.

- a. As Under Secretary for Preparedness, what stand would you take on the need for preparedness standards? Coordinated regional planning? Reliable data collection, monitoring, and reporting on grant use?

ANSWER:

I strongly support preparedness standards, coordinated regional planning and maintaining an understanding of how resources, grants and other, are being used to achieve our preparedness goals. The foundation that the Department is building through the National Preparedness Goal provides the base from which we can establish preparedness standards and performance measures that will guide state/local and regional jurisdictions across the country as they developed preparedness capability.

The National Preparedness Goal also establishes expanded regional collaboration as a national priority. My work in the NCR has cemented by commitment to coordinated regional planning. It is very difficult, particularly in an areas as complex as the NCR, however, it is the right thing to do to ensure that our resources are be used efficiently and our capability is maximized. Through coordinated regional planning we get the interoperability – among people and with their equipment – we need to be prepared for all hazards.

We also need appropriate systems to provide visibility into how our resources are being used. This could mean grant tracking mechanism or other tools to track our resources. It is important, however, that these tools contribute to our efficiency and effectiveness and do not become over-burdensome.

- b. What should be the requirements for developing a strategic plan for identifying and building necessary regional capabilities?

ANSWER:

To see the elements of a good strategic for identifying and building necessary regional capabilities I recommend looking to the NCR as a model. Some elements are fairly obvious, for instance, stakeholder participation, buy-in and commitment are essential in order to create a regional strategic plan. Understanding existing capabilities, regional threats, hazards are also required, as is a vision of the desired capability. Defining how progress will be measured is another fairly obvious requirement of a regional strategic plan.

However, my experience participating in the development of the NCR Homeland Security Strategic Plan taught me that there are some less obvious elements for a successful regional strategic plan. One such element is an agreed upon or shared understanding of what brings the region together and what autonomy must be preserved. In the NCR strategy we developed a list of guiding principles that set the context for our regional collaboration and coordination. We agreed that preserving individual jurisdiction was a key attribute for our regional strategy.

I am pleased to see that the process employed by the NCR fits well with the guidance provided by the Preparedness Directorate's Grants & Training. What I've experienced as requirements for developing a strategic plan for identifying and building necessary regional capabilities are consistent with the guidance from the Directorate for the next round of homeland security grants.

VI. Relations with Congress

78. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

ANSWER:

I do so agree.

79. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

ANSWER:

I do so agree.

VII. Assistance

Are these answers your own? Have you consulted with the DHS or any interested parties? If so, please indicate which entities.

Many of the questions posed in this questionnaire go to a level of specific detail about Department programs, DHS sub-components, or other efforts about which I have relatively little in the way of current, firsthand, personal or definitive knowledge. That said I have endeavored to identify as much information as possible so as to be as responsive as possible to the Committee. This has entailed normal pre-confirmation and departmental orientation consultations with the White House personnel office and related staff, the Office of Government Ethics, and DHS staff. That said, these answers are my own, and are based upon my understanding of the information provided to me.

ANSWER:

I do so agree.

79. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

ANSWER:

I do so agree.

VII. Assistance

Are these answers your own? Have you consulted with the DHS or any interested parties? If so, please indicate which entities.

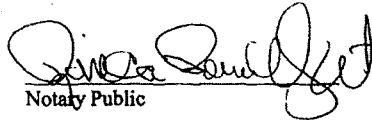
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AFFIDAVIT

I, George W. Faresman, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



Subscribed and sworn before me this 5th day of December, 2005.


Notary Public

City/County of Prince William County
Commonwealth of Virginia
The foregoing instrument was acknowledged before me
this 5th day of December
by George W. Faresman
Notary Public
My commission expires November 30, 2006

**Senator Carl Levin
Pre-Hearing Questions for
George Foresman
Nominated to be Undersecretary for Preparedness, Department of Homeland Security**

Border States

1. What do you see as unique challenges faced by states that border Canada?

ANSWER:

If confirmed, I look forward to learning more from the respective Departmental agencies which deal most closely with border issues to determine what unique challenges exist. Success in preparedness efforts will require stronger integration of all component activities of the Department as well as with external stakeholders.

2. How important are meeting those challenges to overall homeland security?

ANSWER:

As noted above, if confirmed, I anticipate learning much more about these particular challenges to homeland security and ensuring stronger unity of effort.

3. What do you see as the distinctive role of the Office for Domestic Preparedness (ODP) in working with international border states?

ANSWER:

The Office of Grants and Training ensures that the proper preparedness programs and capabilities are in place to address many vulnerabilities, including those unique to border states. More specifically, this includes enhancing their planning, exercise, training, and equipment program. It also includes fostering relationships with CBP and other local, state and federal agencies.

The Office of Grants and Training encourages mutual aid agreements, executes cooperative exercise and training plans, and organizes regional planning meetings. Grants and Training must also ensure that state and urban areas strategies adequately address goals and objectives related to border security.

If confirmed, I look forward to ensuring cross-border exercises remain a core capability of a National Exercise Program, housed within Grants and Training.

4. What is your opinion of providing direct funding to international border states to deal with their unique border crossing implementation issues?

ANSWER:

It is my understanding the Department of Homeland Security provides direct funding to every state, including international border states, to address their unique threats and vulnerabilities. If confirmed, however, I will certainly review this particular funding matter further.

Interoperability

5. What is your opinion of providing direct funding to border states to deal with the interoperable communications challenges they face?

ANSWER:

It is my understanding the Department of Homeland Security provides direct funding to every state, including international border states, that should be used to address interoperable communications challenges. In fact, improving interoperable communications capability is one of seven national priorities from the National Preparedness Goal. States have allocated \$1.5 billion in SHSGP and UASI funding to interoperable communications in FY 04 and 05 alone.

**Post-Hearing Questions Submitted by
Senator Susan M. Collins
For the Nomination of George W. Foresman to be
Under Secretary for Preparedness, Department of Homeland Security**

1. If confirmed, how will you work with FEMA to ensure an all-hazards approach that recognizes the roles and responsibilities of all levels of government, as well as the emergency preparedness and response disciplines, who are key partners at the state and local level?

ANSWER: During my years with the Virginia state government, I have had numerous opportunities to work with the dedicated team at FEMA. And, if confirmed, I look forward to working closely with the FEMA leadership to ensure that we have built a robust and effective all-hazards approach as envisioned by the Secretary and this administration.

2. Do you agree that international borders, coastline, and the presence of critical infrastructure, such as power plants and food supplies, are important factors that must be included in addition to population and population density in distributing risk-based terrorism grants?

ANSWER: Yes, I certainly believe international borders, coastline, and the presence of critical infrastructure are important factors that should be included in addition to population and population density in distributing risk-based terrorism grants. It is my understanding that the FY 2006 risk formula used by the Department reflects those additional considerations, building upon the approach applied in previous fiscal years for the UASI program and incorporating suggested improvements and lessons learned.

3. The response to Hurricane Katrina showed that communication and preparedness among all levels of government must be improved, particularly with regard to compliance with the National Response Plan and National Incident Management System. Based on your experience in the Commonwealth of Virginia, do you have specific thoughts on how the Department can remedy this problem?

ANSWER: I believe that the Department should continue to place significant national emphasis on implementing the National Incident Management System (NIMS), particularly through training and exercises. Federal, states, and local representatives need to plan, train, and exercise together so that we can work together seamlessly during a disaster. I also understand the NIMS Integration Center continues to lead efforts to improve resource management at the federal, state, and local levels through resource typing, enhancing mutual aid agreements, and developing plans for the receipt and distribution of resources and commodities. To improve preparedness, we should continue to work with our state and local partners to ensure the development and refinement of operational plans, such as commodity distribution plans and evacuation plans.

With respect to the National Response Plan (NRP), I understand the NRP calls for a 1-year evaluation of the Plan, based on exercises and actual incidents. It is my expectation the Department of Homeland Security will conduct a comprehensive review of the NRP, particularly in light of the lessons learned and recommendations after Hurricane Katrina.

4. If confirmed, what steps will you take to organize and implement the Preparedness Directorate in a way that is inclusive of all stakeholders and comprehensive in its coordination of all preparedness functions throughout DHS?

ANSWER: If confirmed, I will certainly continue to implement the Secretary's plan to consolidate existing preparedness efforts into a single directorate led by an Under Secretary for Preparedness. And, in so doing, will certainly emphasize that DHS, Sector Specific Agencies, and State, Territorial, tribal, and local governments must work closely with private industry and all our stakeholders to ensure a comprehensive preparedness effort.

5. Do you believe that the Preparedness Directorate can effectively regulate the security of chemical facilities, and for that matter, effectively work with the private sector to enhance security for other critical infrastructure sectors, from DHS headquarters in Washington, DC? Or do you believe that to effectively enhance critical infrastructure protection, that DHS needs a larger presence and more contact on the ground at the State and local level, to build partnerships and provide guidance to the chemical and other critical infrastructure sectors?

ANSWER: I understand that under Homeland Security Presidential Directive – 7, the Department of Homeland Security (DHS) is responsible for coordinating critical infrastructure protection (CIP) efforts within the Chemical Sector as the Chemical Sector Specific Agency. It is also my understanding that DHS has taken the path of partnering with the owner/operator community to bring a coordinated approach to securing the infrastructure. To help manage this coordinated approach, DHS, in conjunction with Federal, state, local, and private sector security partners, stood up a Chemical Sector Government Coordinating Council composed of the multiple Federal entities engaged in CIP activities within the Chemical Sector. Similarly, DHS and other sector security partners have collaborated to create a Chemical Sector Coordinating Council composed of sixteen chemical industry trade associations whose membership make up the overwhelming majority of the industry.

It is also my understanding the Department has just launched a Comprehensive Review program for the chemical sector to bring together stakeholders from all levels of government and the private sector in order to leverage the many capabilities and resources available to the betterment of security in the industry and in the communities in which these infrastructures reside. If confirmed, I look forward to learning more about the success of these efforts and what additional improvements, if any, need to be made to this process.

6. What do you see as the role of the U.S. Fire Administration in the new Preparedness Directorate? Will you seek to make any changes to the USFA's role?

ANSWER: I believe the U. S. Fire Administration (USFA) is well positioned with a documented history and practice of helping America's Fire Service in preparing, responding and recovering from threats and consequences of both natural and manmade incidents including terrorism. What I will ensure, however, is that a true collaborative effort occur within the Preparedness Directorate that will see the Office of Domestic Preparedness, State and Local Government, Grants and Training, the Chief Medical Officer and USFA work together to enhance and prioritize all preparedness, training response, and recovery capabilities for both America's fire responders and the public they protect.

7. The various offices within the Preparedness Directorate each have their own history, culture and physical setting. How will you coordinate the efforts of the different components?

ANSWER: I am mindful that many of the offices within the Preparedness directorate have a strong history and culture of public service. If confirmed, I intend to develop the Directorate to recognize and affirm the unique contributions while seeking to bring together the strongest elements of each into a powerful unified direction for preparedness.

**Post-Hearing Questions Submitted by
 Senator Joe Lieberman
 For the Nomination of George W. Foresman to be
 Under Secretary for Preparedness, Department of Homeland Security**

1. In the wake of Hurricane Katrina, I asked Secretary Chertoff to hold off on implementing the Preparedness Directorate as part of the Second Stage Review pending this Committee's investigation of what went wrong with Hurricane Katrina. I also indicated that this Committee may want to make different changes after our comprehensive investigation is finished. How important is it to base preparedness efforts on as complete an understanding of what has worked right, and wrong, as possible in the real world. Put another way, how much of your work in preparedness should focus on learning lessons from real life disasters and incidents, and systematically fixing problems that have been revealed?

ANSWER: It is my belief that learning the lessons from real life disasters, incidents and exercises are essential and integral to preparedness. Fixing problems that are highlighted in real life disasters and subsequently exercises based on scenarios or potential catastrophic events are an every day concern in the Preparedness Directorate. Translating these lessons into tactics, techniques and procedures is the linchpin in assuring the lessons are learned and our responders are operationally capable, interoperable and that the nation is prepared as an integrated joint interagency team.

The lessons learned from an event (e.g., Hurricane Katrina) or an exercise (e.g., Top Officials 3) can be used to tell a story about what was planned, what happened during the event, exercise or training, why it happened, and what could have been done differently to improve performance. There is a continuous loop of planning against an incident, training/exercising to respond with adequate capabilities and resources, following up with hot wash/After Action Reviews (AAR) and then updating/revising plans based on gaps or inadequacy identified post incident during the AAR process. These lessons are then used to validate plans and expenditure of funds for training, exercising, equipment and other resource decisions. Therefore, I believe the Preparedness Directorate must assume responsibility for a national training and evaluation system that is based on a culture of continuous learning and improvement that is well grounded in training, exercises and after action reviews.

2. In your written responses you also pointed out that one of the biggest weaknesses in our current approach to the National Exercise Program is that the Federal government does not have an interagency mechanism that is systematically used to follow up and track corrective actions. So, even though DHS has conducted several national level exercises – including last year's TOPOFF exercise which was designed to test the National Response Plan, there is no mechanism to follow up, learn what went wrong, and systematically fix the problems. If confirmed, what will you do to correct this weakness?

ANSWER: I would work to develop and implement a program designed to address and track corrective actions arising from an exercise or “real world” event. The Department currently has several programs that exist (i.e., Secretary’s Remedial Action Management Program, FEMA’s Remedial Action Management Program, G&T’s Homeland Security Exercise and Evaluation Program After Action Report/Improvement Plan) that are designed to track and implement these corrective actions. I would examine whether to consolidate these efforts into one office/agency and would work to implement a tracking and enforcement mechanism to ensure that agencies that have been assigned responsibility for completing the corrective actions are, in fact, addressing their assigned issues

3. In your response to the Committee’s question about the progress that made in enhancing preparedness in Virginia, you stated that it has been your experience over twenty years that “what gets measured gets done.”

- a. If you are confirmed, what are the metrics you will use to measure progress towards national preparedness?

ANSWER: Understanding that the measurement of progress towards national preparedness will entail some changes from metrics of state preparedness, if confirmed I am committed to understanding, then implementing, those metrics which will most effectively measure progress toward national preparedness.

- b. Secondly, how will you ensure that accurate information to measure the nation’s progress is received?

ANSWER: I am a firm believer that in order to ensure accurate information is received, it is important to establish effective two-way communication with our stakeholders so that they also receive accurate information and guidance from the Department and the Directorate. If confirmed, then, I will certainly implement policies to ensure effective communication.

4. In response to the Committee’s question about the threat posed by terrorists to children, particularly in our nation’s schools, you noted that you are aware of two initiatives at the Department of Education – the Emergency Response and Crisis Management Plans Discretionary Grants Program, which provides competitive grants for planning, training school personnel and students, and a Technical Assistance Program that supports local educational districts improve and strengthen crisis management plans. You did not point to any specific actions of the Department of Homeland Security.

- a. Did you work with schools specifically in Virginia?

ANSWER: Yes we did. I was closely engaged with the development of the Center for School Safety in Virginia – prior to the September 11, 2001 attacks and the corresponding

initiatives to advance crisis action plans in schools after the attacks.

- b. Are there any lessons that can be learned from your work there that could be applied to DHS?

ANSWER: Two. First we have to better synchronize the plethora of preparedness programs that target school age populations – fire safety, DARE, tornado safety to mention a few. There are core messages consistent to each of these preparedness programs. Rather than competing programs targeting a specific hazard or risk we need to move towards a consistent singular focus on “all hazards/risk preparedness” education for children that begins with how to be safer in school and at home. Second the requirement by the Department of Education that federal grant requests for developing crisis management plans be coordinated with appropriate state and local entities is exactly the right approach. This ensures better coordination and integration of effort. I applaud the Department of Education for making the coordination requirement a prerequisite of the grant application process.

- c. Do you believe there should be a more substantial role for the Department of Homeland Security in this area?

ANSWER: Certainly, the Department of Education is the lead agency for educational matters. Under my tenure, I intend to have DHS work more in the education area in collaboration with the Department of Education. There is a clear need for better integration of efforts across the federal family. DHS is positioned to facilitate this integration and broad risk management focus at the federal level as well as among state and local partners. The Department can help to create the environment for better program coordination while supporting state and local agencies with implementation of crisis management enhancements with school entities.

5. September 11th brought into clear focus the communications crisis which our first responders face each time they head into action to respond to an attack or a disaster. Now, four years later, Katrina has again highlighted the critical importance of communication during response activities. Just this week, the 9/11 Commission again called attention to the lack of progress on this critical issue. In your written responses to the Committee's questions about this issue, you stated that you do not have direct responsibility over interoperability, but will work closely with the Science and Technology Directorate and the SAFECOM program to solve this problem. Given the fact that communications is a critical aspect of preparedness, do you believe the Under Secretary for Preparedness should be more directly responsible for this issue?

ANSWER: If confirmed, I certainly will work closely with the S&T Directorate as well as the SAFECOM program to continue to improve our interoperability efforts. Specifically, to understand more about their current effectiveness and work with the Directorate in making any necessary changes to enhance that effectiveness.

6. In its report, DHS, "Re-thinking the Department of Homeland Security," the Heritage Foundation point out that a catastrophic terrorist attack would likely affect several cities and no single city would be sufficiently prepared to respond. They point out that, at a minimum, response efforts would require mutual aid from multiple jurisdictions. Despite this, the study notes that DHS lacks an effective regional structure to facilitate coordination with state and local governments and with the private sector.

- a. Have you given any thought to whether or not DHS needs to develop an effective regional structure in order to prepare our country for the kind of unified, multi-jurisdictional response that is likely to be necessary?

ANSWER: Certainly, I have thought about this issue from the state perspective. If confirmed, I intend to study further the issue of a regional structure in the context of larger preparedness goals and objectives.

- b. What factors do you believe should be considered to determine if a robust regional structure is needed?

ANSWER: As noted, if confirmed I intend to study further the issue of a regional structure further and, in addition, work to understand what factors should be considered in that assessment.

7. As you know, transportation security became a major focus for the federal government following 9/11. Within the Department of Homeland Security, however, there are multiple agencies and offices which have responsibilities for protecting our transportation systems and infrastructure. In addition to the Transportation Security Administration and Coast Guard, which have obvious transportation security responsibilities, the Office of State and Local Government Coordination and Preparedness (SLGCP) (which will be within the Directorate for Preparedness) also has some responsibility for protecting transportation infrastructure. SLGCP is responsible for administering several transportation security grant programs. In fact, the transit, bus and port security grant programs are frequently pointed to by the Administration and Secretary Chertoff as evidence of the Department's efforts to secure those sectors. Yet, many security experts believe the federal government has not dedicated anywhere near the same level of attention to securing our mass transit and rail systems. For example, approximately \$400 million has been spent on rail and transit security in recent years, compared to more than \$14 billion for commercial aviation security.

- a. Do you believe the current level of federal funding for mass transit and rail security is sufficient? What level of funding for mass transit and rail security would you recommend?

ANSWER: It is my understanding the Department of Homeland Security (DHS), Office of Grants and Training (formerly SLGCP) is responsible for administering the

Department's non-aviation transportation security grant programs and critical infrastructure protection grant programs. For FY 2006, the Administration requested \$600 million for a Targeted Infrastructure Protection Program (TIPP) that would have combined separate allocations for mass transit, port, bus and critical infrastructure protection into a single program that would have allocated funds based on risk, need and national security priorities. Ultimately, Congress chose to maintain individual allocations for these areas. I firmly support the Targeted Infrastructure Protection Program and the Department's backing of a flexible, risk-based program. I believe TIPP would be the best approach to addressing the security of the nation's critical infrastructure, including mass transit.

- b. You noted in your written answers to the Committee's questions that DHS "has focused the majority of its funding and efforts towards what has been considered the largest and most consistent potential threat - attacks on our aviation system." However, given based upon more recent incidents - the bombings in Madrid and London - it appears that terrorists are also likely to target transit systems. How should the Department determine what the greatest threats are, and how should the Directorate of Preparedness ensure we are not just preparing for the last attack, but rather for whatever the next one might be?

ANSWER: I understand that the Department relies on input from the Office of Intelligence and Analysis (I&A), a member of the U.S. Intelligence Community, to monitor current threat streams and provide analysis on terrorist tactics, techniques and procedures. It is my understanding that this process ensures that the Department's judgments are grounded in the best possible information. That said, the Preparedness Directorate will work closely with I&A to make certain that its activities, including critical infrastructure protection and grant allocations, are based on the most current analysis of the threats facing the Nation.

- c. You also noted in your written answers to the Committee's questions that the fact that transit systems are open, as opposed to the closed nature of aviation systems, doesn't weaken the federal government's role in providing security, but that it does pose a challenge. What do you believe can be done to overcome that challenge?

ANSWER: I am told that, recognizing the challenges posed in protecting mass transit systems, DHS continues to work on enhancing transit system security. For example, I understand DHS is prioritizing short-term, mid-term, and long-term technical solutions to Improvised Explosive Device (IED) detection in mass transit systems. In addition, to address the overall threat posed by IEDs, it is my understanding the White House established an IED Interagency Task Force which is chaired by the Department of Homeland Security, Office of Infrastructure Protection.

- 8. As Under Secretary for Preparedness, you will be responsible for ensuring that the nation's critical infrastructure is protected in the case of a terrorist attack or natural disaster. As everyone now knows, 85 percent of this critical infrastructure is owned by

the private sector. On November 2, the Department issued for comment the latest version of the National Infrastructure Protection Plan – some 161 pages which "provides the unifying structure for the integration of critical infrastructure/key resource protection efforts into a single national program." Turning this base plan into a real plan of action is a more difficult challenge. Also, this plan will presumably be followed by plans that are specific to each critical infrastructure sector. What do you believe will be the major challenges that must be overcome to make sure that this latest plan does not sit on the shelf, and that it is actually implemented?

ANSWER: As you note, approximately 85 percent of the Nation's critical infrastructures and key resources are owned and operated by the private sector. To ensure that the National Infrastructure Protection Plan (NIPP) and the Sector-Specific Plans are implemented will require that DHS engage and coordinate with these private sector owners and operators to encourage them to assess risks and take protective actions. It is my understanding DHS is encouraging private sector participation in infrastructure protection activities through the establishment of information sharing networks and processes and Sector Coordinating Councils. The Preparedness Directorate is also working closely with State and local entities to ensure that infrastructure protection is addressed at the state, local, and regional level as well as at the national sector level. If confirmed, I will continue to pursue efforts to work with State, Territorial, Tribal, local, and private sector entities to build the partnerships and minimize the obstacles. Additionally, I will work to develop the incentives required to effectively implement the shared responsibility of infrastructure protection.

9. Earlier this week, when the 9/11 Public Discourse Project, formerly the 9/11 Commission, issued its report card, the Commissioners issued a D in the area of "incentives for information sharing." According to the report, "changes in incentives, in favor of information sharing, have been minimal." The Commissioners also stated that "there remain many complaints about lack of information sharing between federal authorities and state and local level officials."

- a. From your perspective in Virginia, what was your experience with respect to receiving the information you required from the federal government?

ANSWER: Information flow has improved but there are clearly still opportunities to make it better. We need to ensure stakeholders at all levels of government, in the private sector and among our citizens have the right information at the right time and in the needed form to make critical decisions about preparing for, preventing, responding or recovering from emergencies or disasters.

- b. What steps did you take to promote greater information sharing in Virginia?

ANSWER: First we have created a multi-disciplinary information and intelligence fusion process that is empowered by a state level fusion center as well as regional centers in the more populous region of Northern Virginia. Second and most notably we have

begun to adjust the culture of “need to know” to “is there a need not to know”. Sensitive information is protected but we also focus on getting information in a form that is useable and can be readily received from and distributed to a broad range of stakeholders as quickly as possible.

- c. What kind of incentives do you believe are necessary to promote sharing of information?

ANSWER: Information sharing is critical element to assessing risk. The transition to a broader focus on risk based funding will create incentives for stakeholders to share information since that date will help determine funding levels. In addition, we should recognize and reward measurable results and progress with information sharing among all stakeholders. Also, additional state or federal liability and regulatory protections may be needed with regard to private sector stakeholders.

- d. What are the key lessons that you will bring with you about sharing information, now that you will become part of the federal government?

ANSWER: The main lesson that I will be bringing to the position of Under Secretary for Preparedness on information sharing will be the perspective of an official at the state level of government. I will draw on my years of experience as a state homeland security official and I will ensure that the information sharing by DHS with state homeland security officials as well as local and tribal governments and the private sector fully meets the needs of the non-federal entities. In order to meet that objective, DHS and other federal agencies must take into account the equities of state, local and tribal governments and the private sector in the process of developing the policies, procedures and technologies for enhanced information sharing.

I will also take the necessary actions to ensure that the non-federal entities have a role in the development of standards that impact all levels of government. In addition, I will work to alleviate the problem faced by many officials at the state, tribal and local levels—that of conflicting information and instructions from different agencies of the federal government. I will work with my colleagues within DHS and throughout the federal government so that there is clarity and consistency in the information shared by the federal government with the other levels of government.

10. Under the Secretary's reorganization plan, the Chief Medical Officer (CMO) will be responsible for coordinating medical issues, which would include taking the lead on BioShield, working within the Department, as well as with officials at the Department of Health and Human Services and the Department of Agriculture to improve coordination of the Federal Government's medical preparedness efforts. If confirmed, what do you expect the CMO's responsibilities to entail, and how will you coordinate them with your own responsibilities?

ANSWER: I understand that the Chief Medical Officer (CMO) coordinates the

Department's medical preparedness initiatives and provides sound, data driven, science-based, advice and policy counsel to the Secretary to drive core incident management decisions. And, in addition, that the CMO also provides coordination and oversight on behalf of the Secretary for the Department's biodefense programs. If confirmed, I certainly intend to coordinate all responsibilities which are directly under my supervision to ensure the strongest united effort for preparedness.

11. Emergency Support Function 8 of the National Response Plan gives HHS the lead responsibility for mass casualty care. At the same time, several important medical response capabilities, such as the National Disaster Medical System (NDMS), which is composed of 109 teams that supplement State and local medical resources during disasters, and the Metropolitan Medical Response System (MMRS), which is designed to enhance existing emergency preparedness systems to effectively respond to a public health crisis, especially a weapons of mass destruction (WMD) event, rest in DHS. DHS also has overall coordination responsibility for response to Incidents of National Significance. How will you coordinate with HHS to ensure adequate preparedness measures are being taken? How will you coordinate Federal response during an actual emergency, such as Katrina?

ANSWER: As outlined under the Secretary's Second Stage review, the Department now has a Chief Medical Officer. In addition to the responsibilities noted above, I am told that Dr. Jeff Runge, the Department's first CMO, also plays a key role in coordinating DHS medical assets and ensuring that adequate medical preparedness measures are being taken. In addition, Dr. Runge is currently assembling a team of physicians, healthcare administrators, policy experts and other medical resources in order to assess gaps within the Department's existing medical response infrastructure.

I also understand that Dr. Runge has been working closely with Secretary Leavitt and other senior-level officials from Health and Human Services, including representatives of the United States Uniformed Public Health Service, the Centers for Disease Control and Prevention, the National Institutes of Health, and the Office of Public Health and Emergency Preparedness.

Finally, during an actual emergency such as Katrina, the Department will operate as directed by the National Response Plan. In addition to serving as the Secretary's principal medical advisor, Dr. Runge and his staff will assist with the Interagency Incident Management Group (IIMG) and support the implementation and execution of Emergency Support Function #8 as requested by the Homeland Security Operations Center (HSOC).

13. In your May 13, 2004 testimony before the House Committee on Transportation Infrastructure, Subcommittee on Economic Development, Public Buildings and Emergency Management, you said, "it is absolutely appropriate in the current time that we have a very deliberate focus on the risks caused by terrorism. The physical, economic and societal implications of the threat are enormous. But we must also balance the

terrorist threat against the very real and all be it more likely scenario of a major natural or technological emergency or disaster occurring that, while not intentional, inflicts a comparable level of destruction." Do you still hold this view and, if so, how will that affect your approach to your responsibilities as Under Secretary for Preparedness.

ANSWER: That is still my view. I would anticipate, if it is the will of the Senate to confirm me, a major focus would be to help create an environment where communities, states, federal agencies and the private sector understand risk as a broad continuum comprised of the full range of hazards and threats we face. A full understanding of risk must drive preparedness efforts. The various funding sources of local, state or the federal government and the private sector each with specific focuses or limitations can then be used as appropriate to address specific components of that broad continuum. I firmly believe that there are core competencies that are consistent in dealing with prevention, response or recovery irrespective of the hazard or threat. But as a specific threat or risk evolves locally, regionally, or on a state or national level additional emphasis may be needed. Preparedness must be driven by policy decisions grounded in both the understanding of the full continuum of risk and determinations about the level of investment a local community, state, the federal government and the private sector is willing to make to reduce a component or the full range of risk to a level they consider acceptable.

14. In your May 13th testimony before the House Committee on Transportation Infrastructure, Subcommittee on Economic Development, Public Buildings and Emergency Management, you stated the following: "Personally, I believe a risk based allocation system makes good practical sense in theory. I also believe that we are many years away from being able to implement such an approach. There is no systematic manner by which threats and risks are measured under a consistent national standard across communities, states, critical sectors and disciplines. In other words, no way to make apple-to-apple comparisons as a basis for the allocations. Such an approach, while laudable and reasonable, will require significant investment of time and effort – well worth it. It should be a goal for the future, but we are simply not there yet." Please elaborate on the "significant investment of time and effort" that you referred to?

ANSWER: The significant investment of time and effort to which I referred may be best demonstrated in reviewing the increasing efforts of the Department. For example, in FY 2006, DHS has taken a major step forward in its risk analysis, developing a robust model which evaluates both risk to assets as well as risk to populations and geographic areas. In addition, the DHS formula has progressed from a simple count of "high" and "low" criticality and numbers of threat reports in FY 2003 to a fully risk-based computation that is attack-scenario based and uses infrastructure-specific vulnerability and consequence estimates. At the same time, it is my understanding that DHS has gone from considering 14 infrastructure types in the analysis in FY 2003 to more than 40 in FY 2006.

**Post-Hearing Questions Submitted by
Senator Daniel K. Akaka
For the Nomination of George W. Foresman to be
Under Secretary for Preparedness, Department of Homeland Security**

1. On July 14, 2005, at a hearing before the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia of the Committee on Homeland Security and Governmental Affairs entitled, "The War on Terrorism: How Prepared is the Nation's Capital?", you testified that the National Capital Region (NCR) had completed a draft National Capital Region Homeland Security Strategic Plan. And in response to a post-hearing question on the National Capital Region (NCR) Strategic Plan, you stated that the final version of the NCR Strategic Plan would be released in September 2005. On October 31, 2005, the NCR released a version of that plan that is now being described as a draft and the Committee has been informed that the final version of the NCR Strategic Plan will not be completed until March 2006.

Why has the NCR Strategic Plan not been completed?

ANSWER: It is my understanding that the NCR Strategic Plan is the first regional strategic planning effort in the whole Nation. In addition, the plan itself requires charting new territory in a unique and complex region that is home to all three branches of the federal government; 2 states and the District of Columbia; 12 local jurisdictions; and a robust non-profit and private sector.

It is my understanding that in order to develop a Strategic Plan that is representative of all jurisdictions and emergency preparedness sectors, and that promotes lasting, effective long term cooperation in the NCR, requires participation from a very broad section of regional homeland security partners. I am told that the number of participants and the ambition nature of the effort make it difficult to complete quickly.

It is my understanding that DHS is already using the priorities agreed upon in the planning process to help steer preparedness in the region. For instance, DHS recently released the FY2006 DHS Homeland Security Grant guidance. It is also my understanding that as the NCR works to develop the grant applications for FY2006, priorities identified in the strategic planning process will guide the investment of regional resources.

**Prepared Statement of Tracy A. Henke
Nominee for Executive Director
Office of State and Local Government Coordination and Preparedness
U.S. Department of Homeland Security
December 8, 2005**

Thank you, Chairman Collins, Senator Lieberman, and members of the Committee.

It is a pleasure to appear before you today as you consider my nomination by the President to serve as the Executive Director of the Office of State and Local Government Coordination and Preparedness. I am both honored and humbled by this nomination and thank the President for his confidence. In addition, I thank Secretary Chertoff for his support and confidence. If confirmed, I look forward to the opportunity to be part of Secretary Chertoff's team.

I thank Congresswoman Emerson and Congressman Cleaver for their appearance today on my behalf, their kind words, and their support. In addition, I thank Senators Bond, Talent, and Warner who couldn't be here today, but who have been great supporters and advocates for me throughout the years. I am blessed to know and have worked with all of these great public servants. I am grateful for their mentoring and their friendship. In addition, I thank my family and friends for their support, their guidance, and their love.

With 9/11, Hurricanes Katrina, Rita, and Wilma, as well as other events from around the world, our national awareness of threats—terrorists threats, natural disasters, and other events—has sharpened. As a result, all of us, especially those involved directly or indirectly in public safety, understand our collective responsibility to work to prevent, but also to prepare and respond to those threats as well as our duty to build a safer, and more secure world. Throughout my years in public service, but specifically at the Department of Justice, I have been honored, but more importantly—grateful, for the opportunities to support, work for, and partner with the public safety community. Individuals on the frontlines every day who truly make a difference.

Working on issues such as 9/11, Katrina, body armor, DNA, Medal of Valor, and others have clearly shown that our nation's first responders put themselves—intentionally put themselves—in positions where they will be called upon to show their courage, their dedication, and their selflessness every single day.

Men and women in public safety have a perfect sense of the dangers they might face. Yet, despite that, they raise their right hands, swear the oath, and take the job anyway.

If confirmed, I will raise my right hand, swear the oath, and continue to work with and for, as well as support and partner with the tremendous public safety community serving and protecting all of us and this great nation.

If confirmed, I commit to continuing the efforts to build partnerships at and across all levels of government, with the private sector, and with every day citizens as we work to provide and

improve upon the capabilities necessary to better prepare and protect America.

If confirmed, I commit to listening to and working with the first responder community, local, state, and tribal leaders, and all stakeholders as we work toward the common goal of getting the best value and return for our homeland security investments.

If confirmed, I commit to working on improving the preparedness of citizens across the country, knowing that an alert, informed, and knowledgeable citizenry makes a tremendous difference.

If confirmed, I commit to working with the Congress and others in the Administration to ensure a coordinated and informed effort to assist states, communities, and our nation's first responders better prevent, prepare, and if need be, respond and recover from whatever hazards we may confront.

If confirmed, I commit my energies to making a difference in our nation's quest for preparedness.

Thank you.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)
Tracy A. Henke
2. **Position to which nominated:**
Executive Director, Office of State and Local Government Coordination and Preparedness
Department of Homeland Security
3. **Date of nomination:**
July 14, 2005
4. **Address:** (List current place of residence and office addresses.)

Business: U. S. Department of Justice
950 Pennsylvania Avenue, Room 5706
Washington, D.C. 20530
5. **Date and place of birth:**
DOB: January 6, 1969
Place of Birth: St. Charles, Missouri
6. **Marital status:** (Include maiden name of wife or husband's name.)
Single
7. **Names and ages of children:**
N/A
8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.
Secondary: Troy Buchanan High School, August 1983 to May 1987
Diploma, May 1987
College: University of Missouri-Columbia, August 1987 to May 1991
Bachelor of Arts, May 1991

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

Deputy Associate Attorney General, U.S. Department of Justice, Washington, D.C.,
October 2003 to present

Acting Assistant Attorney General, U.S. Department of Justice, Office of Justice Programs,
Washington, D.C., January 2005 to June 2005

Principal Deputy Assistant Attorney General, U.S. Department of Justice, Office of Justice
Programs, Washington, D.C., June 2001 to October 2003

Senior Policy Advisor, Office of U.S. Senator Christopher S. Bond, Washington, D.C.,
January 1999 to June 2001

Acting State Director, Office of U.S. Senator Christopher S. Bond, Jefferson City, Missouri
June 1998 to December 1998

Senior Legislative Assistant, Office of U.S. Senator Christopher S. Bond, Washington, D.C.
May 1997 to December 1998

Legislative Assistant, Office of U.S. Senator Christopher S. Bond, Washington, D.C.
August 1994 to May 1997

Special Assistant, Office of U.S. Senator John C. Danforth, Washington, D.C.
April 1993 to August 1994

Staff Assistant/Field Representative, Office of U.S. Senator John C. Danforth, St. Louis, Missouri
April 1992 to July 1993

Assistant, Lee Elliott, Attorney-at-Law, Troy, Missouri
June 1991 to April 1992

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

N/A

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

To the best of my knowledge:

University of Missouri-Columbia, Student Organizations Allocations Committee Chair, 1989-1991

12. **Memberships:** List all memberships and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

To the best of my knowledge:

American Council of Young Political Leaders, Lifetime Member

University of Missouri Alumni Association, Lifetime Member

Omicron Delta Kappa, Lifetime Member

University of Missouri QEBH Honorary, Lifetime Member

Senior Executive Service, Current Member

Alexandria, Virginia Extension Council, 1999

St. Mary's Catholic Church, 1999 to present
 S.O.M.E (So Others Might Eat), 2004 to present (financial support)
 Habitat for Humanity, 2004 to present (financial support)
 Special Olympics, 2005 – (financial support)
 Sigma Rho Sigma Honorary, 1989 – 1990
 Kappa Epsilon Alpha Honorary, 1988 - 1989

13. **Political affiliations and activities:**

- (a) List all offices with a political party which you have held or any public office for which you have been a candidate.

N/A

- (b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Republican National Committee, past member/past contributor

- (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 5 years.

To the best of my knowledge:

Talent for Governor, \$150

Talent for Senate, \$100

Bush/Cheney 2004, \$750

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

To the best of my knowledge:

American Council of Young Political Leaders

Omicron Delta Kappa

University of Missouri QEBH Honorary

Sigma Rho Sigma Honorary, 1989 – 1990

Kappa Epsilon Alpha Honorary, 1988 – 1989

Numerous College Scholarships

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

"Honoring and Protecting Law Enforcement Officers and their Families," Grand Lodge FOP Journal, June 2005

"New Hope for the Missing," Miami Herald, May 3, 2005

"Victims of Crime Act: Just a Good Start," Times Leader (Wilkes-Barre, PA), April 13, 2005

"Standing Up for the Victims," Anniston Star (Alabama), April 13, 2005

16. **Speeches:** Provide the Committee with four copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

Attached

17. **Selection:**

- (a) Do you know why you were chosen for this nomination by the President?

It is my hope that President Bush chose me for this position because of my knowledge of and interest in homeland security issues, knowledge of the federal grant-making process, knowledge of the stakeholders, background working on transportation, energy, environment, and appropriations policy issues in the Congress, and my four years of experience at the Department of Justice.

- (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I believe that my knowledge of the federal grant-making process, my knowledge of the stakeholders involved in the issues, my work on law enforcement and victim issues at the Department of Justice, my work on and knowledge of transportation, energy, environment, and appropriations issues during my years working in the U.S. Senate all provides a great background and qualifies me for this appointment. My areas of strength include leadership skills, policy and procedure formulation, strategic planning, networking/partnership development, and top level negotiating.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Yes

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

I have noted that the interest that I hold or that are imputed to me that present a possibility of presenting a conflict are my financial investments in the following companies:

Stock

Ameren Corporation
 Bristol Myers Squibb Company
 Comcast Corporation New Class A
 Conagra Foods, Inc.
 Empire District Electric Company
 General Electric Company
 Intel Corporation
 Merck & Company, Inc.
 New York Community Bancorp, Inc.

Bond

American General Finance Corporation Medium Term Senior Note

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

N/A

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

By virtue of my former position as the Principal Deputy Assistant Attorney General and as Acting Assistant Attorney General, I was occasionally included in claims against the agency as I often served as the final signing authority in employment actions even though I may have had no direct involvement in the alleged discriminatory action. The following are the only ones I am aware of.

RESOLVED--December 12, 2002, Federal Labor Relations Authority hearing pertaining to whether a member could be classified as a bargaining unit employee. Record of hearing and decision can be found at the Federal Labor Relations Authority Office, 1400 K Street, NW, 2nd Floor, Washington, D.C. 20424.

RESOLVED--June 18, 2002, submitted interrogatories pertaining to an employee claim of retaliatory harassment. January 24, 2005, the Department of Justice Complaint Adjudication Office dismissed the claim. The employee has appealed to the EEOC.

PENDING--October 6, 2004, employee filed a claim alleging that his reassignment was in retaliation for his participation as a witness in 2 EEO matters in which I acted as the final settlement official. Case pending. Case on file with the U.S. Department of Justice, Equal Employment Opportunity Staff, Washington, D.C. 20530

2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

No

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

N/A

4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

N/A

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

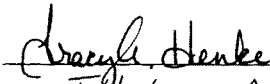
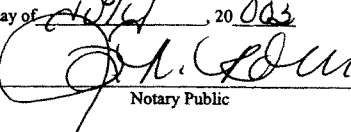
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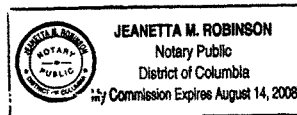
Tracy A. Henke being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Subscribed and sworn before me this

2/5/05

day of

February, 2005


 Notary Public





United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

July 21, 2005

The Honorable Susan M. Collins
Chair
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Madam Chair:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Tracy A. Henke, who has been nominated by President Bush for the position of Executive Director, Office of State and Local Government Coordination and Preparedness, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the Department of Homeland Security concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated July 15, 2005, from Ms. Henke to the Department's ethics official, outlining the steps that Ms. Henke will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of her confirmation date with the actions she agreed to take in her ethics agreement.

Based thereon, we believe that Ms. Henke is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, reading "Stuart D. Rick".

Stuart D. Rick
Deputy General Counsel

Enclosures

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the
Nomination of Tracy A. Henke to be
Executive Director, Office of State and Local Government Coordination
and Preparedness, Department of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Executive Director of the Office of State and Local Government Coordination and Preparedness (SLGCP) of the Department of Homeland Security (DHS)?

RESPONSE: I expect that the President nominated me for this position because of my knowledge of and interest in homeland security issues, knowledge of the federal grant-making process, knowledge of the stakeholders, background working on transportation, energy, environment, and appropriations policy issues in the Congress, and my four years of experience at the Department of Justice.

2. Were any conditions, expressed or implied, attached to your nomination?

RESPONSE: No

3. What specific background and experience affirmatively qualifies you to be Executive Director of SLGCP within DHS?

RESPONSE: I have had the honor and opportunity to work many years in the U.S. Senate and in the Administration. These opportunities have provided a tremendous amount of first-hand experience and information that is invaluable.

I believe that my knowledge of the federal grant-making process, my knowledge of the stakeholders involved in the issues, my work on law enforcement and victim issues at the Department of Justice, my work on and knowledge of transportation, energy, environment, and appropriations issues during my years working in the U.S. Senate all provides a great background and qualifies me for this appointment. My areas of strength include leadership skills, policy and procedure formulation, strategic planning, networking/partnership development, and top level negotiating.

4. Have you made any commitments with respect to the policies and principles you will attempt to implement as Executive Director of SLGCP of DHS? If so, what are they and to whom have the commitments been made?

RESPONSE: No.

5. If confirmed, are there any issues from which you may have to recuse or disqualify

yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.

RESPONSE: After consultation with DHS Ethics Counsel and review by the Office of Government Ethics, I have put in place an ethics agreement with appropriate recusal measures regarding my financial investments that present a possibility of presenting a conflict of interest. I am committed to working closely with the Department to avoid any situation that could cause a conflict of interest or the appearance of a conflict of interest.

**II. Role of the Executive Director of the Office of State and Local Government
Coordination and Preparedness, Department of Homeland Security**

6. What is your view of the role of the Executive Director of SLGCP, DHS?

RESPONSE: It is my view that the role of the Executive Director of SLGCP is leading, managing, and coordinating the many activities, responsibilities, and priorities of the organization. Specifically, the role includes communicating, working, and promoting coordination with other components in the Department of Homeland Security, other federal organizations, and state, local, and private entities, in addition to working with the Congress to ensure that the preparedness capabilities of the nation continue to improve.

7. In your view, what are the major internal and external challenges facing DHS and SLGCP? What do you plan to do, specifically, to address these challenges?

RESPONSE: As with any large organization, major internal and external challenges include communication and coordination. I believe this is true for DHS and SLGCP. I know that much work is already underway to address these challenges. If confirmed, I will work with the Administration and Department leadership, my peers, and the field to seek input and suggestions on ways to improve communication and coordination efforts.

In addition, I would use existing tools to provide information and promote coordination, including email, the website, regular meetings, and other avenues available. I also recognize how important it is to communicate with the dedicated staff of the office. To do their job, they must not only know what is going on a daily basis, but have a clear understanding of the Department's and SLGCP's overarching goals and objectives. The staff also has daily interaction with the direct and indirect partners of the office located throughout the country. By keeping staff informed, they can serve a vital role in facilitating communication and coordination between and among the federal and state and local communities.

As part of the communication and coordination efforts, educating people about the role and responsibility of the office and activities is vitally important. If confirmed, I would

work with the federal, state, local, and private partners to inform them of the priorities and programs of SLGCP. I would also strive to leverage the resources and expertise of SLGCP to maximize the capabilities of all involved who are working toward the goal of improving our nation's readiness and preparedness.

8. If confirmed, how would you communicate with SLGCP staff to receive their input on the activities and policies of the office?

RESPONSE: Communication with staff is imperative to the success of any organization. If confirmed, I look forward to working with the staff and listening to their opinions, advice, and counsel.

Face to face opportunities to meet with employees is extremely valuable. Those opportunities facilitate relationship building and a level of trust. If confirmed, I look forward to working and meeting with the dedicated SLGCP staff on a routine basis.

III. Policy Questions

Second Stage Review

9. Under the Secretary's proposed reorganization, the position for which you have been nominated will have responsibility for training. What exactly does "training" include? For example, the organization chart provided by DHS for the reorganization indicates that the Federal Law Enforcement Training Center does not fall under SLGCP or, indeed, even within the Preparedness Directorate. Also, there is some confusion as to whether the Emergency Management Institute, co-located with the National Fire Academy in Emmitsburg, MD, is going to be transferred to the Preparedness Directorate or remain in FEMA. What is your understanding of SLGCP's responsibilities over these and other DHS training related components?

RESPONSE: I understand that the implementation of the Secretary's reorganization is ongoing. If confirmed, I look forward to working with my colleagues at the Federal Law Enforcement Training Center, which, as its name suggests, focuses on providing training to federal law enforcement officers from DHS and other federal agencies, with the National Fire Academy, and others, to further the mission of DHS.

9. The proposed reorganization plan includes a new chief medical officer. It seems logical that many responsibilities for emergency medical service may fall under this new officer. What do you see as SLGCP's responsibilities to the EMS community and what responsibilities will fall under other entities such as the new chief medical officer?

RESPONSE: EMS is a critical component of the preparedness community. If confirmed, I look forward to working with the chief medical officer to address the needs of the EMS community.

10. The proposed reorganization plan would divide the current Office of State and Local Government Coordination and Preparedness into two parts, with the outreach functions of the SLGCP located in the Office of Legislative and Intergovernmental Affairs (as a new Office for Intergovernmental Affairs) and the grants and training functions located in the Directorate for Preparedness (as a new Office of Grants and Training). What do you see as the advantages and disadvantages of this proposal for the mission of SLGCP?

RESPONSE: The Secretary's reorganization will serve to better focus the roles and responsibilities of Department elements, including SLGCP. If confirmed, I look forward to working with my colleagues and Department leadership to effectively implement the reorganization plan.

Emergency Management Performance Grant Program

11. One of the grant programs currently administered by SLGCP is the Emergency Management Performance Grant (EMPG) program. At the time this program was transferred from FEMA, the agreement was that the policy issues regarding EMPG (eligibility, work plans, etc.) would remain in FEMA with SLGCP merely administering the grants. Is it your understanding that all aspects of EMPG will now be handled by your office? If so, how will you ensure that policy regarding EMPG remains true to its long-standing, critical, all-hazards purpose?

RESPONSE: The Emergency Management Performance Grant Program (EMPG) falls under the administrative authority of SLGCP, specifically the program is within the Office for Domestic Preparedness. This transfer was consistent with the Department's "One-Stop-Shop" consolidation efforts and the Department's desire to consolidate preparedness activities. It is my understanding however, that ODP has and will continue to receive guidance and advice from FEMA, as well as other Department components, as the Department's preparedness efforts continue to evolve. Should I be confirmed, I will ensure that the EMPG program continues to reflect this collaboration between ODP, FEMA, other DHS components and the State and local emergency managers it serves.

11. State and local emergency management agencies have experienced delays in receiving EMPG funding due to the current policy of distributing funds through the State Administrative Agents (SAAs) even where an SAA is not part of the state Emergency Management Agency. What do you believe to be the advantages and disadvantages of the current allocation policy? Do you believe the process should be changed to allow state Emergency Management Agencies to receive the grants directly?

RESPONSE: I support the award of these funds through the State. I firmly believe that the distribution and uses of homeland security funds requires a strategic and coordinated approach. This process can most effectively be managed by a central agency within each State. However, if confirmed, I will certainly examine this issue to determine if we can identify a more efficient and effective means of distributing these funds.

First Responders

12. Because we cannot predict the date, time and location of a terrorist attack, we have to maximize training opportunities across the nation to as many local first responder agencies as possible. Having said that, there is an infrastructure in place already in every state providing training to the nation's 800,000 first responders. For example, the state fire training academies are accredited by one or both of the national accrediting agencies for fire and emergency services training and have certified instructors who teach according to national standards. How can the Department of Homeland Security take greater advantage of this system, which provides training locally rather than at regional facilities and possesses instructors with practical experience in a wide range of homeland security disciplines?

RESPONSE: I agree with the policy of the Department and the Administration that homeland security is a shared responsibility among Federal, State, local, and tribal governments. Part of this shared responsibility is to make use of each others strengths, and to build, where appropriate, on each others resources. This is not only an efficient and effective use of resources, but good public policy. To this end, I am aware of a significant existing training infrastructure within the States that certainly augments the training provided directly by the Federal government. Recognizing this existing infrastructure, SLGCP strongly encourages States to use existing training academies in the development of their own State-based training strategies, initiatives, and courses. I understand that the Department ensures that these facilities, their instructors, and their curriculum meet uniform standards and are consistent in their approach and content through a certification process.

13. What steps will you take to ensure that you are receiving appropriate guidance from state and local first responders?

RESPONSE: I value the input from those in the field who are the Nation's first line of defense against terrorism. I also know that the Department and SLGCP has continually worked to seek the opinions of the State and local emergency response community in the development and delivery of its programs and the formation of its policies. If confirmed as Executive Director of SLGCP, I will commit to work to ensure that SLGCP continues to build upon its outreach efforts to the stakeholder community.

14. In working with state and local governments, what guidance would you provide on how to allocate funding and efforts between prevention/protection and response/recovery?

RESPONSE: It is critical that Federal homeland security funds support overall national preparedness goals and objectives. It is important for the Federal government to provide both the leadership, and to collaborate and work with States and localities to identify these national goals and objectives while striking the appropriate balance between these goals and objectives.

Any SLGCP funds expended must be in accordance with goals and objectives identified in these strategies. At the same time DHS, acting through SLGCP, gives States the maximum flexibility to decide which projects and expenditures are of the highest priority. If confirmed, I will continue to support this policy of providing States and localities the flexibility to determine how they distribute their funds based on identified needs and capabilities that cover prevention, protection, response, and recovery.

15. Do you agree that, while we should place greatest emphasis on targeting homeland security funding to those areas thought to be at highest risk of terrorist attack, the inherent uncertainties of risk assessment require an effective homeland security strategy to also include significant funding dedicated to smaller communities and rural areas for first responders and preventers, as well as for infrastructure protection? Please explain.

RESPONSE: Preparedness is a national goal and an effective national homeland security strategy must include assistance and support for smaller and more rural communities, as well as mid-sized suburban communities and larger and denser urban areas. Each have particular risks and needs and an attack on each would produce its own unique set of consequences. The effective protection of the nation requires a Federal, State, and local partnership. This is illustrated by SLGCP's State Homeland Strategy development process which, by working through the various States, ensures that both rural and urban areas are considered in a State's overall assessment of its requirements.

As you know, the Department is finalizing the National Preparedness Goal, which will allow DHS to effectively focus funding to address essential capabilities required by all types of communities. I expect and anticipate that the Department will continue to work with States and local communities to ensure that funding is allocated to those communities with the most significant needs, whether they are rural or urban.

16. What steps will you take to ensure that smaller communities and rural states and localities receive adequate federal assistance to achieve and maintain the essential capabilities that DHS has identified as necessary for the country to prepare for or respond to threats and natural disasters?

RESPONSE: National preparedness means preparing the nation as a whole. The nation does not stop at city lines or other arbitrary boundaries. Rural communities have their own unique sets of needs and risks, and if attacked, would produce their own unique set of consequences. As such, if confirmed, I will work to ensure that SLGCP continues to

work with and provide assistance to all different types and sizes of communities – whether urban and rural – through these efforts and explore new options to ensure that rural communities receive the support they need.

17. According to DHS staff, DHS imposed a population threshold in FY2005 for cities to be considered for Urban Area Security Initiative (UASI) grants, regardless of the level of threat faced by the city. Do you agree that localities that face significant threats should not be disqualified from receiving homeland security funding simply because they do not meet a particular population threshold? If confirmed as Executive Director of SLGCP, will you work to remove this population threshold for consideration for future grants?

RESPONSE: If confirmed, I will support the Administration and the Department's policy of distributing homeland security funds on the basis of risk and need.

18. The President's Budget for FY2006 proposes that each state receive a minimum allocation of .25 percent of State Homeland Security Grant Program funds. Given that the Administration supports the concept of a minimum allocation, how does the percentage proposed in the President's Budget ensure that states will receive a sufficient level of predictable funds to help them achieve essential capabilities?

RESPONSE: It is my understanding upon reviewing the President's FY 2006 budget request that each State is guaranteed to receive at least .25 percent of total appropriated funds based on a careful analysis of risk and need. While the large majority of funds will be distributed based on risk and needs, this guaranteed funding level should allow States to advance their levels of preparedness. Further, we should not forget that homeland security is a shared responsibility. The funds provided by the Federal government should supplement and not supplant funds that States and localities will dedicate to homeland security.

19. DHS has finalized or issued drafts of three critical documents to guide the nation's preparedness for and response and recovery from major emergency incidents—whether these incidents are the result of nature, accident, or deliberate action, such as terrorist attacks. The documents are the National Response Plan, the National Incident Management System, and the National Preparedness Goal.

How would you use the grants flowing through DHS to effectively implement these three policy initiatives? How should SLGCP assess the effectiveness with which state and local entities are using federal funds to implement them?

RESPONSE: It is critical that homeland security funds support national homeland security goals and objectives. With the development of the National Response Plan, the National Incident Management System, the National Preparedness Goal, as well as the Targeted Capabilities List and the Universal Task List, the Department is in a better position to ensure that homeland security funds do support national goals and objectives.

As this process has evolved, the Department has been able to not only provide States and localities with better guidance, but has an enhanced ability to articulate its requirements.

I understand that SLGCP has already begun this process, and DHS/SLGCP homeland security funds currently support implementation of these policy initiatives. In reading the Fiscal Year 2005 Homeland Security Grant Program guidance, it clearly notes that any efforts related to implementation of NIMS and the National Preparedness Goal are allowable expenditures under the program, and are required.

Further, as described in the Interim National Preparedness Goal, DHS will develop a national assessment system. It is my understanding that the system will provide a means to assess the effectiveness with which State and local entities are using Federal funds to implement the three policy initiatives.

If confirmed, I will fully support the continued development and final implementation of HSPD-8 and the National Preparedness Goal to ensure that States and localities have the appropriate measures to determine how their programs are improving their overall levels of preparedness and what steps they need to take to address any identified gaps.

20. Federal first responder grants are a means of achieving an important goal: enhancing the ability of first responders to prevent where possible, prepare for, respond to, and recover from terrorist and other major emergency incidents with well-planned, well-coordinated, and effective efforts that involve a variety of first responders from multiple jurisdictions.

What are the most appropriate and effective means for SLGCP to help achieve this goal? Why? How can SLGCP effectively use the variety of federal grants for which it is responsible to achieve this goal? In working to achieve this goal, what are the most important capacities for first responders to develop first? Why?

RESPONSE: State, local, and tribal public safety agencies have a vital and central role in protecting the nation and in the prevention and response to either terrorist attacks or other hazards, including natural disasters. Since September 11, 2001, Congress has appropriated billions of dollars to State, local, and tribal governments to enhance national preparedness.

The federal grant assistance and other expert assistance provided by SLGCP serves a critical role in these preparedness efforts. SLGCP provides federal grant assistance to State and local governments to conduct planning, procure and maintain appropriate equipment, conduct adequate training, and exercise the first response community. Additionally, SLGCP provides expert assistance through various programs such as direct training courses for first responders and government officials; consultation and guidance on development and execution of exercises; grants management assistance; and myriad technical assistance programs on such important issues as interoperable communications and terrorism early warning systems.

I know that the Secretary, and the Administration as a whole, has strongly encouraged States and localities to adopt regional approaches in their planning and allocation of homeland security resources. Key to this is the understanding that every community cannot build and sustain its own, separate, comprehensive response and recovery capability. Local communities, counties, cities, even States, must build partnerships among their neighbors for the national preparedness effort to be successful.

21. The nation's 840,000 Emergency Medical Service (EMS) personnel would play an important role in responding to terrorist attacks or natural disasters. Recently, however, the George Washington University Homeland Security Policy Institute issued a report outlining concerns about inadequacies in federal funding, training, and leadership for EMS.

- a. What do you believe should be done in order to more fully integrate our nation's EMS providers into homeland security preparedness activities? What role can DHS play in promoting such integration?

RESPONSE: EMS is a critical component of the preparedness community. I understand that SLGCP has specifically included EMS providers in efforts to promote senior advisory committees and regional collaboration and planning at the state, urban area, and local levels to ensure coordination and integration of homeland security preparedness activities across all emergency response disciplines. In addition, all seven National Priorities outlined in the Interim National Preparedness Goal impact EMS and require coordination across all emergency responder disciplines.

- b. Do you believe that additional support can and should be provided for EMS personnel without simultaneously diminishing support for other first preventers and first responders?

RESPONSE: EMS personnel are a critical element of the nation's emergency responder community and the entire emergency responder community is in need of continued and additional support. The challenge facing the nation is ensuring that support is provided to the areas of greatest risk and need, while balancing the support across the emergency responder community. If confirmed, I look forward to further reviewing this challenging issue.

- c. Currently, few, if any, federal training courses for first responders are focused exclusively on EMS training and educational needs, and, according to the GW Homeland Security Policy Institute, none of these courses well integrates the medical aspects of emergency response into its curriculum. What do you believe DHS can and should do to provide better training for EMS providers?

RESPONSE: I know that SLGCP training programs address a broad spectrum of emergency responder disciplines, including emergency medical services, fire service, hazardous materials, law enforcement, emergency management, public works, governmental administrative, public health, health care, and public safety communications. If confirmed, I will review the existing training programs to determine if these programs meet the needs of EMS providers.

- d. How do you believe that any DHS role in preparing EMS providers for homeland security responsibilities can best be coordinated with the responsibilities of the National Highway and Transportation Safety Administration in supporting EMS activities?

RESPONSE: Vertical and horizontal coordination is critical to the success of national preparedness. If confirmed, I will work to ensure that DHS continues to coordinate with all Federal, State, tribal, and local partners in preparing EMS providers for homeland security responsibilities.

22. According to a July 29, 2005 article in *CQ-Homeland Security*, "DHS Grants Office Nominee Gets Mixed Reviews," in the aftermath of the September 11, 2001 attacks, you determined that the Office for Domestic Preparedness, then located within the Office of Justice Programs at the Justice Department, did not need any additional resources. Was the article correct that you communicated to Congressional members or staff or to others in the Justice Department that you did not believe that ODP needed additional resources to address terrorism preparedness in the wake of the 9-11 attacks? If so, please explain the reasons for your conclusion. If not, please describe whether you requested additional resources and, if you did, the nature of your request.

RESPONSE: The CQ article was not accurate. I did not communicate that ODP did not need additional resources after the 9-11 attacks. I communicated that any requests for additional resources by OJP (which included ODP at the time) would not be submitted ad hoc to congressional staff, but would first be submitted through the Department and Administration for consideration under a comprehensive Administration proposal. The Administration and Department leadership stressed the importance of a coordinated effort and response. OJP would not submit information separately from an overall Department and Administration request.

In the Administration's Fiscal Year 2002 supplemental request resources were requested for OJP. A request of \$68.1 million in discretionary resources for the Crime Victims Fund was requested and provided. Additional resources for the Salt Lake City Olympics was requested and provided. However, additional resources for ODP were not requested in the fiscal year 2002 supplemental. Funding was not requested because ODP had significant resources available for distribution. At the time of September 11, 2001, only 4 states had submitted their state plans to ODP. Until states submitted their state plans,

ODP could not make significant resources available. Instead of requesting additional resources in the 2002 supplemental, the Administration, including the leadership of the Department of Justice, OJP, and ODP worked with the States to get the existing funds obligated.

23. What do you believe is the appropriate federal role in supporting state and local first responders in preparing to respond to or in preventing terrorist attacks? Do you believe that financial support for training, equipment and other key resources for first responders is primarily a federal responsibility or a state and local responsibility?

RESPONSE: I believe that homeland security is a national goal that requires a shared commitment between States and localities and the Federal government. States and localities have a responsibility in enhancing their security and preparedness levels. The funds provided by the Federal government should supplement and not supplant funds that States and localities will dedicate to homeland security.

24. There have been persistent concerns about the length of time it takes for homeland security grant funds to go out to states and localities and, ultimately, to the nation's first responders. Do you share these concerns? What would you do to expedite the flow of such grant funds?

RESPONSE: I understand that the Department of Homeland Security is making every effort to ensure that homeland security preparedness grant funds are distributed in an expeditious manner to units of local government and local emergency responder agencies. Moving grant funds quickly is important, but this priority must be balanced with ensuring that homeland security grants funds are used wisely to support areas at greatest risk and with greatest need. If confirmed, I will carefully review this issue to determine if funds can be distributed more efficiently.

25. For the purpose of selecting cities to receive UASI funding, DHS has adopted a combination of metrics to estimate the risk a locality faces. Changes in the methodology from year-to-year has resulted in significant changes in funding decisions that may or may not necessarily reflect changes in actual risks faced by those localities. How confident are you that DHS is currently able to make comprehensive and accurate assessments of risk, vulnerability, and consequence, upon which to base its grant decisions? What is the appropriate process for validating the chosen metrics? Given that in the vast majority of cases – indeed, hopefully all cases – where an area is deemed at risk for UASI purposes there will, thankfully, be no attack, how can DHS determine whether the methodology it has adopted in fact accurately measures risk and that it is selecting the right grant recipients?

RESPONSE: I understand that the Urban Areas Security Initiative (UASI) funding is awarded on the basis of risk and need, with numerous factors being taken into

consideration to determine the appropriate levels. If I am confirmed, I will carefully review the process used to determine the UASI awards.

26. Do you agree that, even if DHS is able to conduct sophisticated risk assessments, it is not possible to predict with certainty where terrorists may strike next? If, in fact, it is not possible to know with certainty where terrorists will strike – if such predictions are at least as much art as science – what are the implications for homeland security grant funding for states and localities? In particular, do you agree that the lack of predictability argues for a minimum level of funding for all states in order to ensure a basic level of preparedness nationwide?

RESPONSE: Yes, I agree that it is extremely difficult to predict with certainty where a terrorist strike may occur. That is why I believe that President's FY 2006 budget request includes a minimum funding level of .25 percent. While the large majority of funds will be distributed based on risk and needs, this guaranteed funding level should allow States to advance their levels of preparedness. Further, we should not forget that homeland security is a shared responsibility. The funds provided by the Federal government should supplement and not supplant funds that States and localities will dedicate to homeland security.

27. State and local law enforcement officials across the country rely on the Community Oriented Policing program (COPS) for grants, training, and technical assistance. In addition to providing funding for hiring new police officers, the COPS programs include grants for bullet proof vests, programs to combat methamphetamine, support interoperable communications, crime identification technology, a DNA and forensics initiative, and the Safe Schools Initiative that assigns officers to work with schools and community-based organizations to address the threat of terrorism, gangs, crime and violence in schools. COPS and other programs to support local law enforcement are even more vital when the demands of fighting terrorism are added to traditional crime fighting duties. In FY 06, the Administration requested \$2.7 million for the COPS program, though some funding for COPS-related activities would have been provided through other programs. This is considerably less than the amount of funding approved by both the Senate Appropriations Committee (\$598 million) and the House (\$515 million).
- a. In your various positions at the Department of Justice, what was your role with respect to developing the Administration's budget requests for the COPS program? Did you support the final budget requests significantly reducing funding for these programs?

RESPONSE: I did not have a role in developing the Administration's budget request for the COPS Office. I support the President's Budget request.

- b. Upon what evidence or information did you base determinations about whether these programs were still needed?

RESPONSE: I was not involved in the decisions or determinations.

- b. Did you consult with state and local law enforcement officials about this issue? If so, what information did you receive that informed the Administration's final budget decisions?

RESPONSE: I was not involved in the decisions or determinations.

Interoperability

29. The tragedy of 9/11 brought increased national attention to the inability of first responders to communicate effectively when responding to attacks and other incidents. Achieving communications interoperability is one of the high priority "essential capabilities" that DHS has identified to implement the National Preparedness Goal. It has also been identified as a top-priority by state homeland security directors. Since 9/11, the Department has undertaken several initiatives to address this critical problem, including creation of the Office of Interoperability and Compatibility and the Interoperable Communications Technical Assistance Program (ICTAP). However, there is still concern that, at the current pace, it will be many years before we have achieved the level of interoperability necessary to protect the American people. Consequently, the Chairman and Ranking Member of the Committee have introduced legislation, the Interoperable Communications for First Responders (ICOM) Act (S.1274) to provide additional resources, promote research and development, and strengthen federal leadership in this vital area.

- a. If you are confirmed, what will you do to ensure that achieving communications interoperability for our nation's first responders is an urgent priority for DHS?

RESPONSE: Achieving communications interoperability continues to be a national priority, identified both in Homeland Security Presidential Directive-8 on national preparedness and also as a capability-specific priority supporting the achievement of the three principal priorities of the National Preparedness Goal. Consistent with this, interoperable communications equipment has been an allowable use of the homeland security grants offered by the Office of State and Local Government Coordination and Preparedness (SLGCP) since the inception of the Department. I understand that use of these grant funds is tied to the goals and objectives identified in each state or urban area homeland security strategy. SLGCP established an interoperable communications technical assistance program (ICTAP) to ensure that these funds are maximized by the grantees. I also am aware that SLGCP has worked closely with the SAFECOM program to incorporate standard grant guidance on interoperable communications equipment into its application kits.

- b. What do you consider a realistic time table for achieving an acceptable level of interoperability for first responders across the country? What is the Department's current time table?

RESPONSE: It is extremely difficult to realistically estimate the amount of time it will take to fully achieve communications interoperability. I know that the Department has taken many significant steps to improve communications interoperability, but much remains to be done to accomplish all of the public safety interoperability goals. If confirmed, I look forward to further reviewing this issue and working with others within the Department to achieve these goals.

- c. What level of resources do you believe is necessary to achieve this objective? What is the Department's current estimate of the amount of resources that will be needed to reach this objective?

RESPONSE: I understand that through the SAFECOM program the Department is currently developing the National Interoperability Baseline, which will provide a measurement of the current state of public safety communications interoperability across the nation. The baseline will provide a qualitative understanding of the current state of interoperability nationwide upon completion. Once the Baseline Study is complete, the Department will have a greater understanding of the resources needed and the current level of interoperability across the nation. If confirmed, I look forward to further reviewing this issue.

- d. How important is it that DHS complete and publish a national strategy as well as a national architecture for interoperability, as called for in the ICOM Act?

RESPONSE: I believe that the development of a national strategy to improve interoperability is vital to the nation's homeland security and its first responders. If confirmed, I will ensure that SLGCP works with SAFECOM in the creation of a national strategy guided by the input of local and regional public safety officials and will use its programs to assist State and locals to implement the strategy.

- e. What is the Department's current capacity to fund innovative pilot programs designed to evaluate more cost efficient and spectrum efficient methods of achieving interoperability?

RESPONSE: I am aware that SLGCP distributed over \$2.5 billion to States and local jurisdictions to support preparedness in fiscal year 2005. In using this funding, I understand that SLGCP encourages States to support innovative programs designed to achieve efficient methods of interoperability. In addition, through the ICTAP program, SLGCP provides free technical assistance to States to help solve challenging interoperable communications issues. If confirmed, I will further review this important issue.

- f. What should DHS be doing to foster the development and adoption of interoperable systems for sharing other kinds of data beyond voice and radio communications – for example, text messages, photographs and video – that can be vital in assisting first responders?

RESPONSE: It is my understanding that SLGCP works with the Department's Office of Interoperability and Compatibility and SAFECOM which are responsible for developing standards regarding interoperable communications. I understand that OIC and SAFECOM are in the process of developing a Statement of Requirements (SoR) for Public Safety Wireless Communications and Interoperability, which is not limited to voice communications, but also incorporates data, image, video, and other multimedia that may assist first responders. If confirmed, I look forward to further reviewing this important issue.

Transportation and Port Security Grants

30. Since the consolidation of grant programs within SLGCP, Operation Safe Commerce has been managed by SLGCP. The purpose of this program is to provide a testbed for new technologies and business practices that will enhance security with proven results. Three years since the consolidation, the Committee is unaware of any reports that have been provided to industry or Congress to bring real world experience and data to the debate over supply chain security requirements, costs and benefits. Will you commit that, if you are confirmed, you will provide an update on the results of Operation Safe Commerce projects and a time line for submitting the required, related reports?

RESPONSE: Yes, if confirmed I will ensure that every effort is made to promptly respond to appropriate requests for information and will work to ensure that required reports are submitted.

31. While SLGCP has the expertise to manage grant programs, concerns have been raised about coordination with subject matter experts across the Department in setting priorities for grant funding, such as with the Coast Guard for port security grants and the Transportation Security Administration for transit security grants. SLGCP may also benefit from leveraging expertise across the federal government, such as with the Department of Transportation. How will you ensure the priorities of the Department's operators and other experts are incorporated into grant guidance decisions?

RESPONSE: I understand that SLGCP has worked closely with other key agencies in the Department to ensure these programs benefit from their collective expertise. If I am confirmed, I will ensure that SLGCP continues to leverage the existing expertise within other DHS components such as TSA and the U.S. Coast Guard, and that SLGCP continues to work closely with other DHS components and other experts as the Department develops guidance for our FY 2006 transportation security grant initiatives.

32. In the FY 2005 Port Security Grant Guidance, the Department decided to limit the number of port areas that are eligible for funding, as opposed to allowing all entities subject to Area Maritime Security Plans to make the case for funding their security priorities and balancing those against national priorities in a transparent award process. Are full implementation of the Maritime Transportation Security Act of 2002 and establishing a baseline for security across U.S. ports the purposes of these grants? If so, please explain how limiting the ports eligible for funding furthers these goals.

RESPONSE: The purpose of the Port Security Grant Program is to enhance the physical security of our Nation's ports based upon risk, and considering both port-specific and national factors. This is complimentary to the broad security enhancements required by the Maritime Transportation Security Act (MTSA). I understand that SLGCP is working with the Coast Guard to implement a port-wide risk management addendum to each Area Maritime Security Plan, a MTSA-required planning document. This addendum will provide the basis for understanding security needs from a port-wide perspective and gauging the impact of specific investments in countermeasures, something that is not currently possible. I understand that SLGCP also is working with the Coast Guard to develop and conduct enhanced assessments in the Nation's highest risk ports during FY 2006 to ensure these plans are based on the most current and accurate data.

33. On February 15, 2005 the Office of Inspector General at DHS released its report on the Port Security Grant Program, pointing to several areas of concern. The report noted that an aggregate amount of \$67 million for more than 250 port security projects in both the public and private sectors were funded through the program despite these projects receiving a "marginal" rating by a review board. Some awards were made without any explanation for how those ports met DHS' criteria for "national critical seaports." The review also found that DHS had distributed grants to the private sector for projects that appeared to be for something other than security. The IG report provided a dozen recommendations to the Department for ways to improve the program.

- a. What has SLGCP done to address the issues raised by the IG report? What more do you believe should be done to address any outstanding issues?

RESPONSE: I understand that SLGCP has taken the IG report very seriously and has incorporated its recommendations into the most recent round of Port Security Grant funding. If confirmed, I will further review this issue.

- b. One of the key recommendations made by the IG was that DHS should develop a policy on grants to the private sector in order to prevent the problems identified in the report. The report noted, "DHS has not formulated a strategy or policy to set forth circumstances under which it will or will not award grants to private entities. The program does not: (1) apply an income test to applicants, (2) judge whether the expenditure under consideration is a normal cost of doing business, and (3)

require a cost-share in order to receive a grant award. Private entities have applied for, and received, substantial funding under the Port Security Grant Program. Some of these funds went to projects that reviewers rated overall as below average or worse during the evaluation process, calling into question the merits of these projects.” DHS previously stated it planned to develop a formal policy on private sector funding, and in the interim would adopt a policy of not providing funds to Fortune 500 companies. What policy do you believe SLGCP should adopt regarding private sector funding?

RESPONSE: I understand that in the most current Port Security Grant Program application, private sector companies were allowed to apply to receive funds, however privately owned companies were required to provide a cost match of 50% of the requested Federal amount.

- c. The IG report noted that some of the problems identified could be attributable to conflicting views among DHS officials about how best to award the grant money; i.e. should it be awarded strictly based on risk, by treating different types of entities differently, or in some other manner. If confirmed, what would you do to manage conflicting opinions on this matter and resolve outstanding issues with the Port Security Grant Program?

RESPONSE: If confirmed, I am committed to ensuring that SLGCP collaborates within and outside of the Department to provide an effective and efficient targeting of port security funds.

34. The open nature of mass transit systems makes them appealing as potential targets. Consequently, terrorists have chosen mass transit systems as the focal point of attacks in London, Israel, Madrid, Tokyo, and Moscow. Nevertheless, federal funding to support security measures for our country’s mass transit systems has amounted to roughly \$300 million in direct transit and rail security grants over the last three years. The American Public Transportation Association has estimated that over \$7 billion is needed for rail and transit security. In addition, the New York Times has reported this summer, “With the mass transit systems in Britain and the United States on high alert, the best available defense the governments can provide against a terrorist armed with a bomb is decidedly low-tech: vigilance with dogs, video cameras and security officers.”
- a. What role should the federal government play in securing our mass transit systems? Do you believe that transit security is a federal responsibility or that it is primarily a local and regional responsibility?

RESPONSE: Homeland security continues to be a shared responsibility. I believe the Federal government should maintain both a leadership role and a support role in developing a more secure mass transit system. The effort, however, will not be

successful without the strong support and involvement of State and local government and regional entities.

- b. Should transit systems be using more of their funds for high-tech solutions to security problems?

RESPONSE: Transit systems should be encouraged to evaluate their security needs on a regional basis and leverage the existing funds to address their security problems. The effectiveness of the solution and the cost benefit analysis of the corresponding mitigation of risk should be the determining factor for spending funds and selecting options.

- c. Mass transit systems have deployed various capabilities to secure their systems, and new technologies and methods could also be developed to help secure our transit systems. Where do you believe the Department should dedicate the most funding given the panoply of measures available (e.g., police/security official presence, canine units, surveillance cameras, explosive-detection equipment, chem-bio detection equipment, and consequence mitigation technology, such as shatter-proof glass for windows on buses and trains)? Should the Department dedicate the most funding? Which of those measures should be high priorities for the Department's grant funding?

RESPONSE: It is my understanding that several existing sources of funding under SLGCP, as well as funds available from other federal agencies and departments, may be used to support many of these improvements if the recipient states and localities select these areas for funding. This flexibility is important to our ability to target different sets of needs and requirements. This is consistent with the overall objective that funding should be dedicated based on risk and need factors in each region and should not be limited to a specific set of solutions.

35. This year, for the first time, DHS awarded transit security grants on a regional basis. That is, where transit systems extend into more than one state, the money was awarded jointly to all affected states and representatives of each state were required to form a working group to develop a regional strategy to safeguard the transit system. Previously, transit grants for multi-state systems had been awarded only to the state where the transit system was headquartered, with no obligation that the headquarters state share the money with other localities.
- a. Do you agree that a regional approach to providing transit security grants is a more logical way of protecting passengers on a multi-state transit system?

RESPONSE: Yes, I agree that a regional approach to providing transit security grants is a more logical way of protecting passengers on a multi-state transit system. The regional approach to providing grants is a logical method for increasing passenger security, for

greater information sharing, leveraging of funds and assets, and a more seamless approach to awareness and prevention.

b. Will you continue to make transit security grants on a regional basis?

RESPONSE: If confirmed, I will continue to implement the Department policy of determining homeland security funding based on risk and need, and awarding these grants on a regional basis if that continues to be the best approach possible to address the identified risks and needs.

National Capital Region

36. What relationship do you envision between the head of SLGCP and the Director of the Office of the National Capital Region Coordination (ONCRC)?

RESPONSE: As I have noted in previous responses, I will strive to keep open lines of communications with other DHS components, including with the Director of the ONCRC. If confirmed, I will ensure that SLGCP continues its regularized contact with the ONCRC.

37. Some have suggested that ONCRC could serve as a model for other areas where multiple jurisdictions must be involved in coordinating homeland security efforts. Do you anticipate using the National Capital Region as a model when working with state and local entities outside the Washington, DC area? Please explain.

RESPONSE: I understand that the National Capital Region has made significant strides in the development and implementation of a regionally-based homeland security strategy and has served as a unique demonstration site for such regional cooperation. If confirmed, I will work to ensure that SLGCP takes lessons learned from the National Capital Region and apply those to other areas where possible.

38. Because of the unique challenges faced by the national capital region, coordination among federal and local authorities and first responders is essential to ensuring the region's preparedness. How will you work with ONCRC to ensure that federal officials fully coordinate with local officials and keep those officials informed in the event of an emergency?

RESPONSE: Open lines of communication are critical to effective management and coordination of efforts, particularly in the realm of homeland security. I am aware of the different types of mechanisms employed by DHS and SLGCP to outreach with other Federal partners as well as State and local officials. If confirmed, I commit to continue working closely with our Federal, State, and local partners, and to explore other opportunities to facilitate communications between all relevant parties.

V. Management Questions

Financial Management and Grantee Accountability

39. Considerable attention has been paid to alleged instances of misuse of homeland security funds for other than their legislatively intended purposes. Because homeland security grant funds are limited and the purposes to which they are intended to be put so important, it is critical that grants be used for those purposes – and that there are systems in place to enable DHS, Congress and the public to have confidence that this is so. What steps will you take to ensure that DHS, Congress and the public have complete and accurate information about the allocation and expenditure of grant funds, and that all funds are being spent appropriately?

RESPONSE: I take very seriously the responsibility of ensuring that Federal taxpayer dollars are spent appropriately, efficiently, and effectively. If confirmed, I would continue my commitment to ensuring that the financial operations, systems, controls, and reports of SLGCP are reliable, clear, and meet federal accounting standards.

40. In the official audits of the Office of Justice Program's (OJP) fiscal year 2004 financial statements, an independent auditor issued a disclaimer of opinion because of insufficient information. The concerns raised in the auditor's report were significant enough that they resulted in the auditor disclaiming an opinion for the financial statements of the Department of Justice as a whole. In addition, the issues raised by the FY2004 audit led a previous auditor to re-review OJP's fiscal year 2003 financial statements and to withdraw its clean opinion on that year's statements as well.

The independent auditor found a lack of effective internal controls over financial reporting. Specifically, the auditor identified six matters involving internal controls that it considered reportable conditions, five of which it considered material weaknesses. It found that improvements were needed in "cross-cutting elements" of OJP's internal control structure, and concluded that "[t]he weaknesses in OJP's internal control structure resulted in material misstatements of the financial statements, and increased the risk that additional material weaknesses exist and that additional material misstatements could occur and not be detected." Among other things, it faulted management for not having "performed a comprehensive risk assessment," and noted that "[a] priority had not been placed on updating policy and procedure guidance to reflect current requirements and communicating them to the appropriate personnel."

The auditors noted, too, that documentation was not reliably maintained for significant transactions. In addition, the auditor found weaknesses in OJP's financial management system controls, including inadequate information security, and weaknesses in OJP's grant accounting and monitoring, which resulted in discrepancies in grant and payee information.

Beyond issues of internal controls, the auditor further found that OJP's financial management systems did not comply with certain requirements of the Federal Financial Management Improvement Act of 1996 and identified examples of noncompliance with the Prompt Payment Act and the Improper Payments Information Act.

- a. Prior to the issuance of the independent auditor's report, in your capacity as Principal Deputy Assistant Attorney General for OJP or as Deputy Associate Attorney General with oversight responsibility for OJP, what steps, if any, did you take to promote the accuracy and integrity of OJP's financial management and grant monitoring systems and to ensure that there was accountability for how OJP grant funds were being spent?

RESPONSE: When I assumed the position as Principal Deputy Assistant Attorney General (PDAAG) for OJP, I spent significant time learning about the organization and programs, its operational structure, its financial management, and its employees. It was clear that OJP had been one of the fastest-growing federal agencies in the prior ten years with its resources and staffing more than quadrupling. With growth that fast and the numerous demands to distribute resources, it was difficult for prior leadership to institute all the necessary controls, procedures, training, and coordination that would have been appropriate.

During my initial weeks and months at OJP, I reviewed numerous items including congressional reports, GAO reports, and results of IG investigations. While numerous documents, including congressional reports, identified concerns with duplication, overlap, confusion, and inefficiencies, to my knowledge none raised concerns over OJP's financial management. OJP received clean audit opinions in 1999, 2000, 2001 and 2002. With no previous concerns identified, and with a record of clean, independent opinions on OJP's financial controls with no material weaknesses identified, emphasis was placed on those areas where concerns and problems had been identified. One of those areas included the financial and grant systems supporting OJP's grantees.

As part of OJP's management plan and agenda, steps were taken to continue OJP's efforts on financial and managerial accountability. OJP realigned its budget structure to meet the requirements of performance-based budgeting, improved financial management through contract and grant close-out actions, and worked to fully automate our processes and transition the more than 100 existing legacy information technology (IT) systems to simpler platforms.

In June 2001, OJP's grant monitoring system was still predominantly a paper process. Several steps were taken to improve the grant monitoring system. These steps included a significant investment of financial resources to move OJP's grant process from a paper system to a "cradle to grave" automated system. Significant progress has been made in that effort. In addition, with the assistance of DOJ's Justice Management Division, OJP hired its own CIO responsible for overseeing the implementation of OJP's grant

management system and technology issues at OJP. Other activities that are ongoing to improve OJP's grant management and monitoring include employee training, improved communication to grantees, improved mechanisms to track grantee compliance with reporting requirements, and congressionally required reporting requirements.

- b. What do you believe went wrong at OJP that caused the apparent breakdown of the financial management and grant monitoring systems? What, if anything, do you believe you could have done differently to have prevented or at least lessened the problems?

RESPONSE: I believe that there were three fundamental weaknesses in the OJP financial management and information technology (IT) operations that led to the loss of an unqualified, or "clean," audit opinion last year. First, after five straight clean audit opinions, key financial and IT managers had developed too high of a comfort level with their own established procedures, and did not continue to rigorously self-assess their operations. Second, OJP was slow to adapt to the new audit approach that was employed in 2004 and valuable time was lost as managers attempted to justify old estimation procedures for compiling key information and financial statements. This over-reliance on old procedures ultimately impeded OJP's ability to meet OMB's accelerated 2004 due date for agency financial reports. Finally, the 2004 audit revealed OJP had no ongoing process to review the internal controls surrounding the extensive contractor-run and contractor-supported systems it relied upon for grant processing.

Without the key managers responsible for the systems assessing, identifying, and communicating possible problems with the systems, leadership is in a difficult position to take corrective action. However, the Department of Justice leadership, and OJP leadership specifically, has and is working to instill in our managers the expectation that they approach their operation and controls with a healthy level of self-skepticism, that no program is immune from demonstrating its controls are reliable.

- c. In the conference report on the Consolidated Appropriations Act of 2005, the conferees indicated that they were "extremely disappointed" by the disclaimer of opinion and expressed their expectation that OJP would "submit monthly reports to the Committees on Appropriations on the status of the corrective action plan." Please provide the Committee with a detailed description of the corrective measures that have been taken to strengthen OJP's financial reporting and implement the auditor's recommendations, including any reports that have been submitted to the Committees on Appropriations.

RESPONSE: OJP began its corrective actions to strengthen its financial reporting and IT controls last October. Plans and efforts are closely coordinated with the Department's Chief Financial Officer, the DOJ Chief Information Officer, and with the Office of the Inspector General. OJP's corrective actions have two main goals: to repair the financial weaknesses; and to repair the Information Technology system's weaknesses.

OJP's efforts, with the support of the Department, are already bearing fruit. OJP has received indications from the auditors that its restatement of FY 2003 grant balances has passed its re-audit and OJP will receive a reissued clean opinion on its FY 2003 statements. The Department and OJP hopes to hear a similar result shortly for its restated FY 2004 financial statements.

OJP's work continues on its FY 2005 reporting. OJP's Financial Management Plan includes the following:

- Installation of a fulltime audit manager
- Complete revalidation of the grant accrual estimation process, the core accounting and reporting issue that was at the root of the 2004 disclaimed opinion. This revalidation has been successfully completed for 2003, 2004, and OJP is currently validating the 2005 accrual process with the auditors
- New grant monitoring oversight procedures to ensure accuracy of grantee expense reporting
- Revised procedures for documentation and completeness have been installed for all journal voucher entries, another area that contributed to the loss of the clean opinion in 2004
- Revised procedures have been installed to reconcile and verify the accuracy of the multitude of grant feeder systems to the OJP general ledger, yet another key element of the OJP financial reporting effort

On the Information Technology side, OJP has hired a new CIO who is focused on effecting the corrective actions for the OJP systems weaknesses. The IT corrective action plans are focusing on four areas:

- Access Controls and Account Management
- Application Change and Configuration Controls
- System Interface Controls
- Service Continuity

OJP runs a large number of systems and has made considerable IT improvement progress the past 11 months. However, OJP does have more work to do and not all the weaknesses identified last year by the auditors and in OJP's own reviews will be fixed this fiscal year. Efforts will continue.

- d. If confirmed, what would you do to ensure that problems similar to those at OJP do not arise in the Office of State and Local Government Coordination and Preparedness?

RESPONSE: If confirmed, I would continue my commitment to ensuring that the

financial operations, systems, controls, and reports of SLGCP are reliable, clear, and meet federal accounting standards. In an effort to ensure that similar problems to those at OJP do not arise in SLGCP, I would hope to develop an "early warning" mechanism that would help identify potential problems so necessary corrective actions can be taken to avoid problems before they arise.

41. One of the concerns cited by the auditors about the conditions that gave rise to the material weaknesses in internal controls at OJP was that OJP was overreliant on contractors. Specifically, the auditor's report noted that "OJP appeared to lack sufficient accounting staff with proper training to perform these functions [monitoring of control activities and financial transactions]. In addition, OJP relies heavily on contractors to support critical financial and information technology (IT) functions, and did not have appropriate monitoring procedures in place to oversee their work." The auditors further noted that "OJP's reliance on contractors for critical accounting and information technology functions presented a risk of loss of knowledge and expertise regarding these functions." The auditors recommended that "OJP needs to perform a review of all critical accounting and information technology functions to identify which are inherently governmental and should be performed by OJP staff. For those functions assigned to contractors, OJP should develop policies and procedures to ensure that contractors' work is adequately monitored."
- a. Were functions that were being performed by government employees in OJP at the time of your arrival at OJP in June 2001 subsequently contracted out? If so, please list all the functions and/or positions that were first contracted out in the period since June 2001, an explanation of why the decision was made to contract out these positions, and a description of your role in the decision to contract out these positions.

RESPONSE: To my knowledge, there were no functions that were being performed by government employees in OJP in June 2001 that have been subsequently contracted out.

- b. What has OJP done to implement the auditor's recommendation quoted above? Has a review been conducted? If so, please provide the Committee with the results of that review. Are any positions that had been contracted out at the time of the auditor's report now being performed by government employees? What steps have been taken to ensure that contractors' work is adequately monitored by qualified personnel?

RESPONSE: I, as well as officials throughout the Department of Justice, are committed to ensuring that the financial operation, systems, and controls at OJP and throughout the Department meet federal accounting standards and principles and are of the highest reliability. Numerous steps have been taken to address the recommendations made by the auditors. An initial review of OJP's systems was conducted and subsequent reviews and oversight by the Department's Justice Management Division (JMD) have continued. The

results of these reviews now include direct involvement of JMD in OJP's financial management oversight. Training for OJP personnel responsible for contract management and the oversight of contractors has been implemented. In addition, improved measurable performance goals and outcomes for the overall contract purpose and contractor work have been identified and included in contract agreements.

I am not aware of any positions that have been contracted out at the time of the auditor's report that are now being performed by government employees.

Since 2001, OJP has taken a number of important steps to ensure better contractor performance and oversight. For example, the Office of the Chief Information Officer conducted a top-to-bottom review of all contractors and significantly reduced the number of active contracts. Additionally, as Acting AAG for OJP, I worked with the CIO to reorganize OCIO to provide for more direct oversight of contractors by specialized GS-15 level employees. As an agency-wide effort, OJP has provided specialized training for COTRs (Contracting Officer Technical Representatives) in order to ensure better performance by the federal employees who work most directly with contractors. In addition, new security controls, strengthened separation of duties, and formal change control procedures are in place across the OJP applications. These steps are important in helping federal employees to provide better and more focused direction over the work done by contractors and have enhanced the accountability of contractors to agency leadership.

I understand the inherent risk to the government in relying too much on contractor support. To ensure that this risk is addressed, efforts must continue to install controls that contractors must adhere to, and we must work to improve the depth of expertise in the accounting and financial management areas so that appropriate monitoring of the financial performance of contractors can occur.

The Department leadership and the new component leadership are committed to ensuring the quality and reliability of OJP's financial information and systems. Therefore, efforts will continue to improve the accountability and capabilities of personnel, contractors, and systems.

Information Integrity

42. In a September 22, 2002 article entitled "Some Experts Fear Political Influence on Crime Data Agencies," *The New York Times* reported that greater centralized control was being exerted over the Bureau of Justice Statistics (BJS) and the National Institute of Justice (NIJ), agencies which previously had had authority independent of the Attorney General. In particular, the *Times* reported that, in a change of policy and/or practice, BJS's statistical reports and NIJ's awards of research grants were now required to be reviewed

and cleared by political appointees in the Department of Justice, including you, in your then-capacity as Deputy Assistant Attorney General and the then-Assistant Attorney General for OJP. In addition, a provision was included in the USA Patriot Act that provided OJP with significantly increased authority over those agencies.

- a. Was there a change in policy as reported in the article? Were you involved in the decision to change the review procedures for BJS reports and NIJ research grants and/or to otherwise centralize control over those agencies? If so, please describe your role in the decision-making, whether you supported the decision and, if you supported the decision, your reasons for doing so.

RESPONSE: Contrary to the New York Times article, no change in policy was implemented in the review process for BJS and NIJ reports and grants. As had been the established process, reports prepared by individual OJP components were submitted to the Office of the Assistant Attorney General (OAAG) for review. The reports were then transmitted to the Department of Justice's leadership by the Assistant Attorney General (AAG) for their information. The OAAG had been informed that it had been past practice to allow approximately 30 days after this transmittal before the reports and any accompanying press release would be issued. Often it was requested that the reports be issued prior to the expiration of 30 days. With all new Department and component leadership, confusion existed over the process. AAG Deborah Daniels determined that a memorandum clarifying the process was necessary so all involved understood the process. I supported AAG Daniels' decision to issue the clarifying memorandum.

A proposal by the prior administration as well as OJP's December 2001 Report to Congress concerning reorganization, addressed the "centralized control" of BJS and NIJ. As stated in the 2001 Report, "OJP's structure has a host of separate, individual decision-makers and no overall, coordinated plan, which has resulted in lost opportunities for responding to crime, assisting law-enforcement, and providing services to victims." In addition, the report also stated:

It has been acknowledged on a bipartisan basis that OJP's current structure impedes centralized management, and the streamlining, cost-savings, and accountability it brings, due to the independent authorizations of the five bureau directors. Under the proposed structure, support and program functions will be standardized and centralized. As in all pyramidal organizations, all management and programmatic decisions will lie at the top, in this case with the Assistant Attorney General. While those decision may be delegated, the organization will become "the sum of its parts," a collaborative, coordinated set of programs that are transparent in their accessibility by the public, while maintaining and even enhancing the integrity and priority of existing functions and subject-matter areas.

Section 614 in the USA PATRIOT Act ensures that the collection, analysis, compilation and research functions of NIJ and BJS operate independently of control by the Assistant Attorney General

- b. Who determines the release date of statistical reports prepared by the Bureau of Justice Statistics? Does this reflect a change from the procedures when you first joined the Department of Justice in 2001?

RESPONSE: The Bureau of Justice Statistics proposes a release time frame for its statistical reports in regular updates submitted to the OAAG. That time frame can change depending on the completion of the BJS report. To my knowledge, this does not reflect a change from the procedures in place prior to my joining the Department in June 2001.

- c. Have you personally reviewed statistical reports prepared by BJS prior to their public release? How frequently did you review such reports? Which reports have you reviewed?

RESPONSE: As PDAAG of OJP, I regularly reviewed BJS statistical reports prior to their public release, which was also standard practice of prior OJP leadership.

- d. Have you ever made changes (other than to correct typographical mistakes), or requested that changes be made, to BJS reports prior to their public release? If so, please list all reports that you have changed or requested that changes be made to and indicate the changes.

RESPONSE: I do not recall making any changes, other than typographical and grammatical errors, to BJS reports.

- e. Have you ever had a disagreement with BJS staff over the characterization of data in any report? If so, please describe the disagreement and how it was resolved.

RESPONSE: I have never had a disagreement with BJS staff over the characterization of data in any BJS report.

- f. Have you personally reviewed proposed research grants before they are awarded by NIJ? How frequently do you, or have you, reviewed such awards?

RESPONSE: As PDAAG of OJP, the AAG delegated the signing of the grant award documents to me. Therefore, I would have seen the NIJ award documents, which would have included proposed research information, prior to the awards being issued.

- g. Have you ever overruled NIJ staff's decisions, or rejected NIJ staff's recommendations, about research grant awards, or delayed the award of such a grant?

If so, please describe the research grant award at issue and why you rejected or overruled NIJ's staff, or delayed the award?

RESPONSE: I do not remember ever overruling or rejecting NIJ staff recommendations about research grant awards, nor do I remember ever delaying the award of an NIJ grant.

- h. What actions have you taken to ensure the independence and integrity of the data issued by BJS and the research grants awarded by NIJ?

RESPONSE: Section 614 of the USA PATRIOT Act ensures that the collection, analysis, compilation, and research of BJS and NIJ operate independent of control by the Assistant Attorney General. The leadership of OJP and the Department of Justice, including myself, followed the law.

43. An August 24, 2005 New York Times article entitled "Profiling Report Leads to a Clash and a Demotion" suggests that the Director of the Bureau of Justice Statistics was removed from his position because he complained that political appointees at the Justice Department were seeking to downplay data on the aggressive treatment of black and Hispanic drivers. According to the article, supervisors within the Office of Justice Programs ordered the Director to delete from a press release accompanying a report on racial profiling in traffic stops references to disparities in the way different racial groups were treated upon being stopped. The Director reportedly refused to make the deletions, resulting in DOJ declining to issue a press release and, according to the article, the report not being noticed by the press and the public. According sources to the article, it was your office that reviewed the press release, and a note attached to the proposed release and signed by you stated "Make the changes."

- a. Are you aware of any inaccuracies in that article described above? If so, please explain them.

RESPONSE: The August 24, 2005 New York Times article contained numerous inaccuracies.

1. The title of the article misstates the nature of the report. While a section of the report contained information on race and profiling, the BJS report in question dealt in its entirety with "Contacts between Police and the Public."
2. No political interference has occurred jeopardizing the ability of BJS to independently analyze, compile and report law enforcement data. Section 614 of the USA PATRIOT Act ensures that the statistical analysis and compilation functions of BJS operate independently of control by the Assistant Attorney General.
3. I was not a part of, nor am aware of, any conversation where Mr. Greenfeld was "threatened with dismissal and the possible loss of some pension benefits." I was not

involved in any conversation with Mr. Greenfeld pertaining to his employment status as a presidentially appointed, senate-confirmed individual or as a career senior executive service member at the Department of Justice.

4. BJS is not an "office separate from the Justice Department," but an office that is part of the Justice Department. BJS is part of the DOJ's Office of Justice Programs, which reports to the AAG of OJP.

5. The Justice Department did not opt "not to issue a news release." The decision not to issue a news release was made by BJS Director Larry Greenfeld. Further, a vast majority (70%) of BJS reports are issued without an accompanying press release.

6. The press release as originally drafted failed to indicate—as the report did—that the evidence did not prove these incidents were racially motivated. The report contained the following language in relation to the statistics in question.

However, while the survey data can reveal these racial disparities, they cannot answer the question of whether the driver's race, rather than the driver's conduct or other specific circumstances surrounding the stop, was the reason for the search. The survey asked few questions about circumstances or driver conduct. For example, having drugs in plain view of police is a circumstance that would normally warrant a legal search of the vehicle. But since the survey did not ask drivers whether any drugs within plain view were in the vehicle, the analysis is necessarily limited.

A press release, however, is intended to report concrete and conclusive findings, and therefore it would not have been appropriate to include statements that the report itself acknowledges cannot be proven.

7. It is the exception, and not the norm, for BJS reports to have press releases. Thus, there was no attempt whatsoever on the part of DOJ to bury the findings of the report. Nearly 70 percent of the reports put out this year and in 2004 did not have an accompanying press release. The lack of an accompanying press release for a majority of BJS publications has never hindered the ability of the press nor the public to utilize the information compiled by BJS. The report in question was posted on the BJS Website in its entirety as is the practice for all BJS reports.

b. Did you review the BJS report on racial profiling in traffic stops?

RESPONSE: I reviewed the BJS report entitled "Contacts between Police and the Public.

c. Did you review a proposed press release to accompany the issuance of the report?

RESPONSE: I reviewed a proposed draft press release on the BJS report entitled "Contacts between Police and the Public."

- d. Did you propose any changes to the report? If so, please describe your proposed changes and the reasons you proposed them. Were your proposed changes made?

RESPONSE: I proposed no change to the BJS report entitled "Contacts between Police and the Public."

- e. Did you propose any changes to the press release? If so, please describe your proposed changes and the reasons you proposed them. Were your proposed changes made?

RESPONSE: I proposed changes to the draft press release pursuant to my regular practice. I proposed striking approximately two sentences contained on the second page of the proposed draft press release that listed statistics pertaining to blacks and Hispanics being more likely to be physically searched. I struck the two sentences because the BJS report itself acknowledges that the finding at this point were inconclusive. The report states:

However, while the survey data can reveal these racial disparities, they cannot answer the question of whether the driver's race, rather than the driver's conduct or other specific circumstances surrounding the stop, was the reason for the search. The survey asked few questions about circumstances or driver conduct. For example, having drugs in plain view of police is a circumstance that would normally warrant a legal search of the vehicle. But since the survey did not ask drivers whether any drugs within plain view were in the vehicle, the analysis is necessarily limited.

BJS decided to not issue a press release on the specific report, and the report in its entirety was posted on the internet.

- f. Did you discuss (whether via memos, notes, phone calls, emails, conversations or any other method) the report or release with the Director of BJS? If so please describe your discussions and the results of them.

RESPONSE: Mr. Greenfeld and I discussed the press release and report in my office. I expressed my concern over the language in the release since the BJS report itself states that it was inconclusive as to whether minorities, after being stopped by police, were more likely to be subject to a search because of their race. Mr. Greenfeld stated that he would include the additional language that was contained in the report in the press release. I asserted that a press release should not include statements that the BJS report

acknowledges cannot be supported and a press release should not include a caveat. Mr. Greenfeld continued to push for the inclusion of the additional paragraph in the BJS report to be included in the press release. I informed Mr. Greenfeld that most of his reports were not issued with press releases so in this case he could make the decision of striking the two sentences and issuing the press release or he could go ahead and put the report on the internet with no press release. Mr. Greenfeld informed me that he decided not to issue a press release.

- g. Did you discuss (whether via memos, notes, phone calls, emails, conversations or any other method) the report, the release or your proposed changes with anyone other than the Director? If so, please identify (by both name and title) the individuals with whom you discussed the report, the release, or your proposed changes and describe the discussions and their outcome.

RESPONSE: Deputy Assistant Attorney General Lizette Benedi and I discussed the report and proposed press release. Ms. Benedi suggested that the draft press release be modified to make it more accurate. I concurred.

After Mr. Greenfeld made the decision to not issue a press release, I discussed the matter briefly with Associate Attorney General Robert McCallum during a regular OJP update meeting.

- h. Who made the decision to not issue a press release with the report? What was your role and involvement in that decision? Why was that decision made? Regardless of whether you recall the events at issue, do you currently believe it was the correct decision not to publicize the release of this report?

RESPONSE: BJS Director Larry Greenfeld made the decision to not issue a press release with the BJS report. I reminded Mr. Greenfeld that most BJS reports were not issued with press releases, so in this case he could make the decision to strike the two sentences and issue the press release, or he could post the report on the internet with no press release. I do not know why Mr. Greenfeld chose to not issue a press release for the report, but I do not believe that the lack of a press release hindered the ability of the press or the public to utilize the information.

- i. What portion of BJS reports are issued without accompanying press releases? In what portion of those cases has BJS already provided a draft release? On what basis is the decision whether to issue a press release generally made? Who usually makes that decision?

RESPONSE: Nearly 70 percent of BJS reports issued in 2004 and 2005 did not have an accompanying press release. I do not recall a proposed press release being prepared for any of those reports that did not have a press release issued. The determination to issue a

press release for BJS reports is usually made by the BJS Director. Occasionally the public affairs office of the Department and/or OJP would be involved, but the primary decision to issue a press with a report is made by the BJS Director. This case was no different.

- j. Were there other instances in which you were involved in discussions whether to issue a press release with a report? If so, please detail those instances, and include a description of the discussion, the result of the discussion, whether a release was issued, whether BJS had already provided a draft release, and the name of the report.

RESPONSE: During my tenure as OJP PDAAG, I reviewed and occasionally edited BJS proposed draft press releases. I do not recall any prior discussion on whether or not a press release would be issued with a report.

- k. Please describe any other involvement you had during your tenure at DOJ with racial profiling issues. Did you have any involvement with other studies regarding racial profiling? If so, please identify the studies and your involvement. Did you have any involvement with grants regarding efforts to study or combat racial profiling? If so, please identify the grants and your involvement. To the extent DOJ conducted other studies or awarded grants with respect to studying or combating racial profiling, did press releases accompany the issuance of those studies or the awarding of those grants? Did any issues or disputes arise with respect to issuing press releases regarding any such studies or grants or the contents of any such releases?

RESPONSE: I do not recall any other specific involvement in racial profiling issues during my tenure at DOJ. It is possible that I signed grant award documents that were directly or indirectly related to racial profiling issues. However, I do not recall any specific grant or study. I am not aware of any press releases issued on a racial profiling grant or study.

- l. On February 27, 2001, President Bush stated with respect to racial profiling: "It's wrong, and we will end it in America." What are your substantive views on the appropriateness of racial profiling? If confirmed, do you expect the issue to arise during your work at DHS?

RESPONSE: I concur with the President that racial profiling is wrong. If confirmed, I do not expect issues pertaining to racial profiling to arise. However, if the issue did arise I would follow the law and the policies of the Administration.

- m. Were you involved in any way in the decision to remove the BJS Director from his position or in any discussions regarding whether to remove the Director from his position? If so, please describe your involvement and your views on the

matter.

RESPONSE: I was not involved in any discussions regarding whether or not to remove Mr. Greenfeld as the BJS Director.

- n. If you do not recall the answer to any of the above questions, please identify (by name and title) other individuals who you believe might have a better recollection of the events reported in the New York Times article. Please also indicate whether you or DOJ has files or records relating to the events discussed in the New York Times article and if you or DOJ do, describe the files.

RESPONSE: I provided answers to the questions pertaining to the New York Times article. I am not aware of any "files or records relating to the events discussed in the New York Times article" other than the draft press release and the BJS report.

- o. What is your response to the article's suggestion that there have been "more than three years of simmering tensions over charges of political interference at [BJS]" and that statisticians "say their independence in analyzing important law enforcement data has been compromised"?

RESPONSE: I do not agree that there are or were tensions or political interference at BJS. Statutorily, section 614 of the USA PATRIOT Act requires that the collection, analysis, and compilation of BJS statistics operate independently of Departmental leadership. More importantly, the integrity of the numbers produced by BJS is paramount to the Department's credibility on the issues BJS reports address. BJS Director Greenfeld has consistently stated that BJS statistics are produced under the highest quality standards.

- p. Will you ensure the Committee that, if confirmed, the responsibilities of the Office to which you have been nominated, including decisions about grants and personnel, will be implemented without the kind of political interference alleged in the New York Times article?

RESPONSE: Yes.

Personnel Management

44. The presence of capable and experienced senior-level career staff at an agency can be a tremendous asset to the effective functioning of that agency.
- c. When you joined OJP in 2001, how many Senior Executive Service (SES) positions were there in OJP? How many of those were occupied by career government employees?

RESPONSE: When I arrived at OJP in June 2001, I believe there were approximately 21 SES positions, 20 of which were career.

b. How many career SES employees are there in OJP today?

RESPONSE: It is my understanding that there are currently 15 career SES slots in OJP today and 1 non-career SES.

c. If there are fewer career SES employees in OJP today than there were in when you joined OJP, please indicate the reasons for this.

RESPONSE: In OJP's reorganization, consolidation of offices reduced the number of SES positions needed. The transition of the Office for Domestic Preparedness to the Department of Homeland Security included the loss of one SES position. Several career SES employees retired or accepted opportunities in the private sector over the past four years and those positions reverted back to the Department, and in some cases they were allocated back to OJP or allocated to what was considered a higher priority position elsewhere in the Department.

d. Under what circumstances do you believe it is appropriate to transfer or reassign a significant number of senior executives or career employees in an office?

RESPONSE: A number of circumstances exist where it is appropriate to transfer or reassign employees in an office, including a request from the employee, a reorganization of the entity, a shifting of priorities, and appropriately placing individuals where you can maximize their strengths.

45. What do you believe are the appropriate roles for career employees versus political appointees in assessing grant applications and awarding grants?

RESPONSE: All employees, career and political, have a duty to follow the law and carry out the agenda and priorities of the Administration, this includes assessing and awarding grant applications.

46. How would you assess your strengths and weaknesses as a manager?

RESPONSE: I believe my strengths include both leading and managing an organization, relationship building, developing partnerships and coordination, negotiating, policy formulation, and strategic planning. It is important to recognize in oneself areas that need improvement. I must remind myself not to impose my level of expectation of myself on others.

47. What do you believe to be the key characteristics and qualities of a good manager?

RESPONSE: The key characteristics and qualities of a good manager include, the ability to lead as well as manage an organization; the ability to listen; the ability to process and understand information; the ability to communicate; and the ability to build relationships.

48. How would you weigh the comparative importance of managing SLGCP's programs versus managing its personnel?

RESPONSE: I think that *managing* SLGCP's programs and *leading* the personnel is equally important.

VI. Relations with Congress

49. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

RESPONSE: Yes

50. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

RESPONSE: Yes

VII. Assistance

51. Are these answers your own? Have you consulted with the DHS or any interested parties? If so, please indicate which entities.

RESPONSE: Yes. I have consulted with the Department of Homeland Security and the Department of Justice.

AFFIDAVIT

I, Tracy A. Henke, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Tracy A. Henke

Subscribed and sworn before me this 2nd day of September, 2005.

Rosa M. Washington
Notary Public

ROSA M. WASHINGTON
Notary Public of District of Columbia
My Commission Expires on August 14, 2008

**Post-Hearing Questions Submitted by
Senator Susan M. Collins
For the Nomination of Tracy Henke to be
Executive Director, Office of State and Local Government Coordination and
Preparedness, Department of Homeland Security**

1. Do you believe the minimum funding level provided by the Department of Homeland Security (DHS) is sufficient to ensure that smaller communities and rural states and localities receive adequate federal assistance to prepare to thwart or respond to terrorist attacks?

RESPONSE Clearly, a large portion of the homeland security funding awarded to States is intended for non-urban, rural areas. For example, included as part of the Homeland Security Grant Program (HSGP), the State Homeland Security Program (SHSP) is a broad-reaching program that provides funds to build capabilities at the State and local levels through planning, equipment, training, and exercise activities and to implement the goals and objectives included in homeland security strategies. SHSP is the core State homeland security preparedness program and thus has the most expansive scope of all the programs included within HSGP. SHSP addresses all of the National Priorities and the 37 target capabilities. SHSP funding also supports the four mission areas of homeland security: prevent, protect, respond, and recover. States are required to pass through 80% of funds to local jurisdictions, and are required to report on this requirement to demonstrate coordination with local jurisdictions to ensure that local and State expenditures are synchronized with the goals and objectives identified in the State Homeland Security Strategy.

The National Preparedness Goal includes a National Priority focused on enhancing regional collaboration. Major events, especially terrorism, will invariably have cross-geographic consequences and impact. The expanded regional collaboration priority highlights the need for embracing partnership across multiple jurisdictions, regions, and States in building capabilities cooperatively. Successful regional collaboration allows for a multi-jurisdictional and multi-disciplinary approach to building capabilities for all four mission areas, spreading costs, and sharing risk across geographic areas.

2. Do you agree that international borders, coastline, and the presence of critical infrastructure, such as power plants and food supplies, are important factors that must be included in addition to population and population density in distributing risk-based terrorism grants?

RESPONSE Yes, I believe that international borders, coastline, and the presence of critical infrastructure are important factors that should be included in addition to population and population density in distributing risk-based terrorism grants. It is my understanding that the FY 2006 risk formula used by the Department reflects those additional considerations, building upon the approach applied in previous fiscal years for

the UASI program and incorporating suggested improvements and lessons learned.

3. Some in the law enforcement community have raised concerns about the standards for Personal Protective Equipment, specifically with changes in the Homeland Security Grant Program and its Authorized Equipment List. Because of recent changes to the grant guidelines, law enforcement agencies are now unable to purchase personal protective equipment which they had been able to buy as recently as FY2004 because they do not conform to the NFPA Standard 1994. Prior to 1993, the NFPA Standard was only a recommendation and not a requirement, as it was recognized that law enforcement used air permeable technology in the manufacture of their biological and chemical protective gear because it was much better suited in the tactical environments than the barrier technologies used by firefighters. Do you believe that the purchase of personal protective equipment should be an allowable expense under federal homeland security grants?

RESPONSE Yes, I believe that PPE should be an allowable expense under Federal Homeland Security grant programs, particularly those administered by the Department of Homeland Security's Office of Grants and Training. I am aware that G&T allows States to purchase PPE in accordance with applicable standards.

I also understand that the NFPA 1994 standard was identified as the best indication of suitable protection for responding in a chemical, biological, radiological, nuclear, and explosives (CBRNE) terrorism environment, which includes protections against Toxic Industrial Chemicals/Materials. The existing NFPA 1994 standard is the best consensus standard currently available to address CBRNE terrorism protection for civilian responders, particularly for any responder, including law enforcement, who would be operating in the hot or warm zone. NFPA has recognized the need to revisit the Standard on Protective Ensembles for Chemical/Biological Terrorism Incidents in order to address permeable ensembles and is moving to make those updates by July 2006. It is my understanding that G&T guidance will be updated as those changes are made.

4. Because we cannot predict the date, time and location of a terrorist attack, we have to maximize training opportunities across the nation to as many local first responder agencies as possible. There is an infrastructure in place already providing training to 800,000 first responders throughout every state in the nation. The state fire training academies are accredited by one or both of the national accrediting agencies for fire and emergency services training and have certified instructors who teach to national standards. The new Cooperative Training Outreach Program recently announced by DHS will begin to utilize these existing state facilities. How can the Department take greater advantage of this system, which provides training locally rather than at regional facilities and possesses instructors with practical experience in a wide range of homeland security disciplines?

RESPONSE I understand that through the Fiscal Year 2006 Cooperative Training Outreach Program (CO-OP), State Administrative Agency (SAA) representatives have the ability to adopt various Office of Grants and Training (G&T) sponsored and approved

training programs for delivery by institutions within their state and local jurisdictions and designate institutions as recognized providers for the identified standardized curricula. While SAAs have historically had this capability through existing train-the-trainer programs, the CO-OP provides a suite of G&T training courses for implementation and institutionalization to help address the infrastructure challenges experienced by State, local, and tribal jurisdictions related to train-the-trainer efforts. G&T recognizes the existing capabilities of State and local fire and police academies, universities and community colleges, and other certified or approved institutions to deliver identified G&T sponsored and approved training programs. The CO-OP provides SAAs a means to leverage those resources. States and territories that choose to participate in this voluntary program will provide G&T with a list of designated institutions or organizations with primary and alternate master trainers for each.

Lastly, under G&T's FY06 Homeland Security Grant Program guidance, allowable training-related costs specifically include the establishment, support, conduct, and attendance for programs specifically identified under the State Homeland Security Grant Program, Urban Area Security Initiative, Law Enforcement Terrorism Prevention Program, Metropolitan Medical Response System, and Citizen Corps Program within existing training academies, universities, or junior colleges.

**Post-Hearing Questions Submitted by
 Senator Joe Lieberman
 For the Nomination of Tracy Henke to be
 Executive Director, Office of State and Local Government Coordination and Preparedness,
 Department of Homeland Security**

5. At your confirmation hearing Chairman Collins asked you about the actions you took in March and April of this year in regard to a draft of a Bureau of Justice Statistics (BJS) press release describing a report on contacts between the police and the public. In particular, she referred to edits you insisted on that deleted specific information showing disparities in treatment by police. You responded in part: "In addition to that, another fact, for instance, that was not in the press release is that over 90% of the individuals who were surveyed for this document said that the actions of police were appropriate. That also includes 90% of the people that were searched - concluded that the actions of police were appropriate."

In a subsequent question I asked why you did not think it important or newsworthy enough to include in the release the statistical findings that the police searched white motorists 3.5% of the time, but black motorists more than 10% of the time, and Hispanic motorists more than 11% of the time, and how police were approximately three times more likely to use force or threaten to use force against Hispanics and blacks than against whites. You responded to my question, in part: "90% of those, including those that were searched - whites, blacks, and Hispanics - believed that the actions of the police were appropriate."

(These quotations are not taken from an official Committee transcript, but were transcribed from a video recording of the hearing.)

As far as I can tell, the figure you cite, that 90% of the people searched said that the actions of the police were appropriate, does not appear in the report. In fact, the report does not appear to describe the percentage of those searched who felt the actions of the police were appropriate. The report does indicate that 90% of all people who had any sort of contact with police (including, for example, having reported a crime or being involved in a traffic accident) said the police actions were appropriate. That number is substantially lower where the respondent was suspected of something by the police, and is not broken down by race. The report also indicates that 88% of all drivers and 90% of white drivers stopped by police felt police had behaved properly; the numbers are lower, however, for black and Hispanic drivers.

- a. Where in the report did you find the statistic that 90% of the people that were searched concluded that the actions of police were appropriate?

- b. Although you referred to 90% of all people, including whites, blacks and Hispanics, believing police actions to be appropriate, the numbers among drivers stopped are in fact lower for blacks and Hispanics than for whites. The statistic that 90% of people who had any contact with police said the police actions were appropriate was not broken down by race. Considering you were being asked about a dispute in which you removed evidence of racial disparities from a press release, why did you cite a number describing the responses of all drivers, collectively, when the responses varied by race? Alternatively, if you intended to cite the number describing all people having contact with police, why did you cite a number that simply pooled all responses and did not report on the racial breakdown of the respondents?
- c. Your reference to the 90% figure was in response to specific questions on why you had insisted on deleting undisputed statistical findings showing substantial racial disparities in the treatment of stopped motorists and of people involved in use-of-force incidents. Even assuming the figure you cited was accurate, what was the relevance of the 90% figure to the specific questions you were asked?

RESPONSE a, b, & c

I apologize for any confusion that may have resulted from the additional statistics I cited during the committee hearing. To clarify, the BJS report cites that "In 2002 the vast majority of the 45.3 million persons who had a contact with police felt the officer(s) acted properly (90.1%)." This 45.3 million persons includes those drivers in a motor vehicle stop (16.8 million). The report goes on to further state "The vast majority of drivers stopped by police (84%) said they had been stopped for a legitimate reason, and 88% of stopped motorists felt police had behaved properly during the traffic stop." These numbers include those searched.

The fact that the vast majority of survey respondents felt that police had acted properly in their interactions was merely one of many contained in the report. The draft press release did not contain each of the data contained in the complete report. There is obviously more detailed analysis and breakdown of the data that can be found in the report and on the website.

The overarching point remains that the vast majority of those individuals who reported contacts with police felt that the police acted properly.

- 6. You told Committee staff at the pre-hearing staff interview that you had objected to the draft release because the release failed to make clear that the report did not explain the reasons for the racial disparities in what happened to drivers after they were stopped. In response, Mr. Greenfeld offered to include language from the report itself cautioning that "while the survey data can reveal these racial disparities, they cannot answer the question of whether the driver's race, rather than the driver's conduct or other specific circumstances surrounding the stop, was the reason for the search." You rejected that

suggestion. You told Committee staff that you rejected it because news releases do not typically include such caveats.

- a. Why would you object to the inclusion in the press release of a caveat, contained in the report itself, that in your view would have made the release more accurate?
- b. Why is it more objectionable to include such a caveat in a release than to include it in the underlying report? Wouldn't it have been better to include in the release the explanation Greenfeld suggested than to omit the findings altogether?
- c. What evidence is there of a Department policy or practice that press releases not include caveats, even if the caveats provide more information or a fuller explanation? What could be the basis for such a policy?

RESPONSE a, b, & c

Admittedly, there were stylistic differences, but my primary objection was that the draft press release did not appropriately represent the underlying report.

7. During your Committee staff interview you claimed the findings of racial disparity were inaccurate because the report could not explain the reasons for the racial disparities. Do you dispute that the findings are statistically significant findings of a methodologically sound survey? On what basis did you conclude the findings were inaccurate?

RESPONSE I used the term inaccurate, not because the data was inaccurate, but because the conclusion the reader would be left with from the draft press release would be inaccurate. The report in no way found a causal linkage between race and police searches.

8. Were you not concerned, as was BJS Director Greenfeld, that it would be misleading to issue a press releasing stating that no significant racial disparities existed among individuals stopped by police - but not stating that statistically significant disparities did exist among those who were subsequently searched by the police or against whom force was used? If not, why not?

RESPONSE The draft press release as edited was not misleading. In fact, as stated previously, I believe that issuing the press release without the edits would have been misleading because the impression that would have been given was that the disparity was due to race when, in fact, the BJS Report disclaimed the possibility of drawing that conclusion ("However, while the survey data can reveal these racial disparities, they cannot answer the question of whether the driver's race, rather than the driver's conduct or other specific circumstances surrounding the stop, was the reason for the search." BJS Report, page 11.). In addition, and possibly most importantly, the BJS report itself—containing all the data—would be distributed to

over 600 media outlets and would be available at the BJS website which averages over 15,000 hits a day.

9. In a response to one of my questions during the hearing, you stated that the statistics you believed should be removed from the press release (specifically, the racial disparities in the treatment of motorists who are stopped by police) were not in the "highlights" of the report, as opposed to the finding that showed there was no racial disparity in the rate at which black, whites, and Hispanics are stopped by police. In fact, both numbers are contained in the section of the report clearly marked "Highlights." Can you please explain this discrepancy?

RESPONSE As explained previously, BJS press releases are typically drawn from the "highlights" or "significant findings". In the case of "Contacts between Police and the Public" the "Findings from the 2002 National Survey" are included in a box on the front cover of the document. Those findings are as follows:

In 2002 -
 21% of surveyed residents had a contact with police
 40% of contacts were in traffic stops
 26% of contacts were to report a crime or problem
 1.5% of contacts involved police use of force
 9% of white drivers were stopped
 9% of black drivers were stopped
 9% of Hispanic drivers were stopped
 84% of drivers considered stop legitimate

Numerous additional statistics were included in the "Highlights" section found inside the report that were also not included in the draft press release.

10. Would you agree that the issue of racial profiling was, and continues to be, an important, high profile, and highly sensitive issue? Did it occur to you that by issuing a press release announcing that no disparities were found in stops - but not announcing the disparities among those who were searched - that BJS could be perceived as distorting the results of the study to promote a particular viewpoint? Please explain your answer.

RESPONSE It is specifically because I believe that racial profiling is an important issue that it is imperative that accurate and complete information is disseminated on the issue. I do not believe that had a press release been issued as edited that BJS would, in any way, have been perceived as distorting the results of the study to promote a particular viewpoint. As an example, the "findings" on the front cover of the BJS prepared and disseminated report did not contain the statistics on disparities of those searched. Further, no questions or problems have been cited with the document's presentation of the information.

Finally, the goal was to prevent a misleading press release from being disseminated and instead direct the press, researchers, and others interested to the report itself for the data. What others choose to do with the data, and how they promote or oppose certain viewpoints with the data is up to the consumers of the information, not the Office of Justice Programs or the Bureau of Justice Statistics.

11. In your pre-hearing responses and during your nomination hearing, you noted a number of times that some 70% of BJS reports are issued without a press release. However, as you acknowledged during your staff interview, virtually all Congressionally-mandated BJS studies are issued with a press release (indeed this very study, which falls into that category, was issued with a press release the first time it was produced a few years earlier), and such a release can be important because it may be all a reporter has time to read before filing a story. At the time, were you at all concerned that issuing this important BJS study without a press release could lead to less coverage of its findings?

RESPONSE In my experience, the lack of a press release for a BJS report did not lead to less coverage of the information. BJS statistical information is regularly used by the media, researchers, practitioners, legislators, and others. As previously stated, in this specific case the BJS report was proactively disseminated to over 600 media outlets and was made available on the BJS website which, according to the BJS Director, averages over 15,000 hits a day.

12. In August of this year, The New York Times published a story describing the disagreement that you had had four months earlier with Mr. Greenfeld. According to the article, in a brief telephone interview you told the newspaper that you did not recall the episode. Did you tell The Times reporter that you did not recall the episode?

RESPONSE No, not specifically. Mr. Lichtblau was transferred to my cell phone while I was on vacation with my family. At that time, I explained to Mr. Lichtblau that I promised my family I would do my best not to work on vacation and therefore that particular time was not appropriate for a phone discussion. I did recommend to Mr. Lichtblau that if he would like to talk with me he could contact the Department of Justice's Office of Public Affairs and a time could be arranged. To my knowledge, I never received a follow-up request from Mr. Lichtblau.

13. A few weeks after your disagreement with Mr. Greenfeld, he was called into the office of Associate Attorney General Robert McCallum to discuss the incident. A few weeks later, Mr. Greenfeld was summoned to the White House personnel office where he was informed that he was going to be relieved of his position as Director of BJS. In responding to the Committee's pre-hearing questions, during your staff interview, and at the Committee hearing, you denied having any role in, knowledge of, or opinion about the decision to remove Mr. Greenfeld. I understand that Mr. Greenfeld is a 23-year career employee with BJS who consistently received outstanding evaluations. I further understand that under his leadership BJS has received the highest PART rating (OMB's measure of effectiveness) of any office in the Justice Department. Mr. Greenfeld was described by a former head of BJS

in the Reagan and first Bush Administrations as having a “stellar reputation within the criminal justice community,” and this same official told the New York Times that he had “never met a finer public servant.” The Director of BJS reports to the Assistant Attorney General for the Office of Justice Programs, and you were Acting Assistant AG from January to June of this year.

- a. As Mr. Greenfeld's direct supervisor, what was your opinion of his performance as BJS Director?

RESPONSE My experience with Mr. Greenfeld is that he is a capable statistician. Any further discussion about his performance would be inappropriate.

- b. Can you point to anything in his performance that justified his removal?

RESPONSE Mr. Greenfeld serves in a Presidentially-appointed, Senate-confirmed position. Therefore, Mr. Greenfeld, like all other individuals in such positions, serves at the pleasure of the President.

- 14. In the Committee's hearing on your nomination, you were asked to provide a copy of an e-mail that you sent to Robert McCallum, the Associate Attorney General, concerning Lawrence Greenfeld, the Director of the Bureau of Justice Statistics.

- a. Since March 1, 2005, have you sent or received any other e-mails or other documents concerning or referring to Mr. Greenfeld to or from Mr. McCallum, anyone else at the Department of Justice or anyone in the Executive Office of the President? If so, please provide the Committee with copies of any such e-mails or other documents. For any such e-mails or documents that are unavailable, please indicate who they were received from or sent to, when they were received or sent, and describe their contents.

RESPONSE Please see the Department of Justice's response to Sen. Lieberman's December 12, 2005, letter on this issue.

- b. Since March 1, 2005, have you had any other discussions or communications with anyone at the Department of Justice or in the Executive Office of the President concerning Mr. Greenfeld's performance, your satisfaction or dissatisfaction with Mr. Greenfeld's performance, and/or whether Mr. Greenfeld should be retained or dismissed from his position as Director of BJS? For each such discussion or communication, please indicate with whom you communicated, when the communication took place and the substance of the communication.

RESPONSE In meeting with the new Assistant Attorney General of the Office of Justice Programs, a brief discussion of all the Senior Executive Service individuals and Presidentially-appointed, Senate-confirmed positions was had. This conversation occurred in approximately May of 2005 and was a “primer” on the organization and individuals

serving—including the position of the BJS Director. This conversation was not about specific performance or whether or not individuals should be retained. Any further discussion on the issue would be inappropriate since it is the President's prerogative to remove and/or reassign Presidential appointees.

15. In your answers to the Committee's pre-hearing questions, you indicate several times that "Section 614 of the USA PATRIOT Act ensures that the statistical analysis and compilation functions of BJS operate independently of control by the Assistant Attorney General."

a. Please explain your understanding of how Section 614 accomplishes this.

RESPONSE Section 14 of the USA PATRIOT Act (Pub. L. No. 107-56) makes one amendment to pre-existing law that has any reference to the Assistant Attorney General; *i.e.*, it amends section 108(a) of the Department of Justice Appropriations Act, 2000 (Pub. L. No. 106-113), which was made permanent law by section 108 of the Department of Justice Appropriations Act, 2001 (Pub. L. No. 106-553).

As amended by section 614 of the USA PATRIOT Act (the italicized text, below), section 108 of the FY2000 appropriations act reads as follows:

Notwithstanding any other provision of law, for fiscal year 2000, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice—

(1) may make grants, or enter into cooperative agreements and contracts, for the Office of Justice Programs and the component organizations of that Office *(including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90-351);* and

(2) shall have final authority over all *functions, including any grants, cooperative agreements and contracts made, or entered into, for the Office of Justice Programs and the component organizations of that Office (including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90-351),* except for grants made under the provisions of sections 201, 202, 301, and 302 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; and sections 204(b)(3), 241(e)(1), 243(a)(1), 243(a)(14) and 287A(3) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Therefore this statutory provision gives the Assistant Attorney General no authority at all over "grants made under the provisions of sections . . . 301[] and 302 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, "which are the two sections that set forth the grantmaking and other authority of the Director of the

Bureau of Justice Statistics. Thus, section 614 of the USA PATRIOT Act enhanced the administrative authorities of the Assistant Attorney General over the Office of Justice Programs (including the Bureau of Justice Statistics) but gave the Assistant Attorney General no authority whatsoever over the grants made by the Bureau of Justice Statistics. Section 614 of the USA PATRIOT Act, therefore, ensures that the statistical analysis and compilation functions of the Bureau of Justice Statistics operate independently of control by the Assistant Attorney General.

- b. Please explain your understanding of how Section 614 changed pre-existing law with respect to the relationship between BJS and the Assistant Attorney General.

RESPONSE See response above.

- c. In a September 22, 2002 article entitled "Some Experts Fear Political Influence on Crime Data Agencies," The New York Times suggests that you were responsible for inserting the Section 614 language into the USA PATRIOT Act. Is that report accurate? Please describe any role you had in drafting and reviewing the language of Section 614 and in including this language in the USA PATRIOT Act.

RESPONSE I did not draft the language. As stated in the staff interview, I provided technical assistance as requested by staff on the House Judiciary Committee. Technical assistance included information on the structure and responsibilities of OJP and the individual offices, comments on the draft language shared, and explanation of how things would work. This same assistance was provided on other sections in the legislation when requested.

16. In your answers to the Committee's pre-hearing questions, you indicate you supported then-Assistant Attorney General Deborah Daniels decision to issue a "clarifying memorandum" concerning the process for reviewing BJS and NIJ reports and grants. Please provide a copy of this clarifying memorandum.

RESPONSE See attached.

17. In your answers to the Committee's pre-hearing questions, you quoted the Office of Justice Program's (OJP) December 2001 report to Congress concerning reorganization. As the report states, the development of a new organizational structure for OJP began in 1997.

The December 2001 report states the following about the role of the BJS in OJP: "The Assistant Attorney General, with input from all bureau heads and abiding by all statutory requirements, will make the final decisions regarding programmatic statistical data to be requested by the Bureau of Justice Statistics."

By contrast, the reorganization plan in OJP's March 1999 report states the following: "[The proposed plan] vests authority for agency research and statistics programs in the NIJ and BJS directors while it vests authority in the Assistant Attorney General to require formal

annual review and consultation processes between these two bureaus and the other OJP offices. NIJ and BJS directors would retain authority for all agenda-setting, grant-making and dissemination functions”

- a. Were you involved in the drafting or review of the December 2001 report? If so, please describe your role.

RESPONSE Yes. A draft report had been prepared by prior OJP leadership and staff. The draft report was provided to the new Assistant Attorney General and me for review and consideration. With the assistance of OJP career and political leadership, I edited the draft to reflect their input and comments and provided it to the AAG for approval and eventual transmittal to the Department, OMB, and Congress.

- b. The 1999 report appears to describe broader and more independent authority for BJS and NIJ than does the 2001 report. Please describe your understanding of how the relationship of OJP to NIJ and BJS described in the 2001 report differs from that described in the 1999 report. Why were these changes that appear in the 2001 report made?

RESPONSE Senior career officials were involved in the preparation of the 1999 report, and were also consulted and involved in the preparation of the 2001 report. It is my understanding that the goal was the same – to improve the coordination and responsiveness of OJP and its many components to its customers. It was agreed upon by the majority of the OJP senior leadership, including component heads—and at the direction of the Assistant Attorney General—that the Assistant Attorney General, as the head of the OJP, should have more involvement and oversight in the agency’s operations, including the development of statistical and issue research. However, consistent with the 1999 report, this involvement would not jeopardize the independence and integrity of the actual research or statistical analysis. To ensure the integrity, accuracy, impartiality, and objectivity of the research and statistics products, the researcher and/or statistician would continue to determine independently the methodology to be used in each study or analysis in accordance with generally accepted research and statistical standards.

- c. What is the current status of the reorganization plan?

RESPONSE To my knowledge, the majority of the reorganization plan has been implemented.

- 18. I understand that in or around 2001, the Justice Department awarded, through the COPS program, grants to several police departments to support training and other efforts intended to reduce the occurrence of racial profiling.

- a. Were you aware at any time of these grants, or any other grants provided by the Justice Department to police departments for the purpose of reducing racial profiling? If so, when and how did you become aware of these grants?

RESPONSE I arrived at the Department of Justice at the end of June 2001. I do not recall these grants or any other specific grants awarded to police departments on racial profiling since my arrival at DOJ. In addition, as Principal Deputy Assistant Attorney General at OJP I had no authority over the COPS Office. To be clear, COPS is not a part of the Office of Justice Programs.

- b. Did you ever have a discussion or otherwise communicate (whether orally, in writing, via e-mail, or by any other means) with anyone in the COPS office, the Civil Rights Division, or elsewhere in the Department of Justice, or with anyone else, concerning such grants?

RESPONSE No, to my knowledge I have not communicated any information to anyone in the Department of Justice regarding existing or possible racial profiling grants to police departments.

- c. Did you ever suggest to anyone in the COPS office, or elsewhere in the Department of Justice, that the award of such grants be stopped or delayed?

RESPONSE No. Not to my knowledge.

- d. Did you ever indicate to anyone in the COPS office, or elsewhere in the Department of Justice, that such grants might be inconsistent with the President's policy on racial profiling?

RESPONSE No. Not to my knowledge.

- e. Did you ever indicate to anyone in the COPS office, or elsewhere in the Department of Justice, that the Civil Rights Division, or someone in the Civil Rights Division, had concerns or questions about these grants?

RESPONSE No. Not to my knowledge.

- f. Did you ever indicate to anyone in the COPS office, or elsewhere in the Department of Justice, that recipients of such grants not publicize the grants, or should minimize or delay the publicity surrounding the grants?

RESPONSE No. Not to my knowledge.

- g. If the answer to any of b through f, above, is "yes," please indicate with whom you communicated, when the communication(s) took place and the substance of the communication(s). For any communications that were written, including those in e-mail, please provide a copy of the communication to the Committee.

RESPONSE No response necessary.

19. In your answers to the Committee's pre-hearing questions, you indicated that the "key characteristics and qualities of a good manager" include "the ability to listen." In a July 29, 2005 article in CQ- Homeland Security entitled "DHS Grants Office Nominee Gets Mixed Reviews," a source identified as a "representative of the first responder community," however, describes you as, among other things, "a really bad listener." What assurance can you provide the Committee that you will be open to the views of others who may have useful information or who may disagree with your own views?

RESPONSE I always have and will continue to encourage open discussion. All views, ideas, suggestions, and criticisms are welcomed. Any information or suggestion that can help the agency more efficiently and effectively carry out its mission will be welcomed.

20. How would you describe your management style? If confirmed, what lessons would you bring from your management experience at the Justice Department to the Department of Homeland Security?

RESPONSE I am a tough, but fair manager. I set very high standards for myself and the organization, recognizing that it is the American public we serve. I demand a great deal from myself and those around me knowing top-notch performance is expected and it is what the American public deserves in its public servants. I am inclusive, cooperative, and believe in recognizing outstanding performance.

A lesson I have learned is that often it is important to ask more questions, not less. It is important to get as complete of a picture of the issue as possible before making a determination. In addition, at the Department of Justice I have learned the importance of regular meetings (weekly at minimum) and of meeting with your senior team members. This helps to ensure that the organization moves forward in a cooperative and cohesive manner.

21. When you first arrived at DOJ, did you rely on the experience and knowledge of the senior career staff? Would you rely on them at DHS?

RESPONSE Yes. Senior career staff provide an invaluable resource and knowledge base upon which I commit to draw from.

22. As you know, in the official audits of the OJP's fiscal year 2004 financial statements, an independent auditor issued a disclaimer of opinion. In your answers to the Committee's pre-hearing questions you indicated that, in an effort to ensure that similar problems to those at OJP did not arise in the Office of State and Local Government and Preparedness, you "would hope to develop an 'early warning' mechanism that would help identify potential problems so necessary corrective actions can be taken to avoid problems before they arise." Please elaborate on this answer, describing what you believe are the key components of such

an early warning system and the specific steps you would take to put an early warning mechanism in place.

RESPONSE One way to accomplish an “early warning system” is reinforcing to those directly responsible for the oversight and compliance of the different systems that they should not develop too high of a comfort level with their own established procedures, but should continue to rigorously self-assess their operations and communicate with leadership possible weaknesses and suggestions to fix the weaknesses. In addition, I believe it is imperative that government staff has a complete understanding of all operations which is imperative in oversight of work that is done by contract staff. Finally, reinforcing the importance of internal controls and accountability will assist in creating an “early warning” environment.

23. The independent auditor's report noted that “OJP’s reliance on contractors for critical accounting and information technology functions presented a risk of loss of knowledge and expertise regarding these functions” and recommended that “OJP needs to perform a review of all critical accounting and information technology functions to identify which are inherently governmental and should be performed by OJP staff.” Has such a review been done? If so, please provide the Committee with a report of the results of the review.

RESPONSE It is my understanding that as a result of the FY 2005 audit report, OJP management has been assessing its management structure and ensuring that there is adequate government expertise to ensure proper oversight of critical operations. OJP has already taken steps to assign government staff as backup for critical operational jobs currently performed by contract staff. OJP has also begun to document the key processes, including identifying the proper internal control environment to be maintained for each task. Once this analysis is completed, OJP staff within the Office of the Comptroller will conduct a verification exercise where the OJP staff will perform each key task to ensure that the federal employees know and understand each key process. A longer term effort is also underway to review the structure of OJP’s Office of the Comptroller. The review will include a critical review of all jobs, taking into account the skill mix of the staff and contractors. A report on the review is not yet done.

Finally, I have been informed that OJP’s Office of the Chief Information Officer has performed reviews of key information technology procedures and controls. New control guidance has been issued by the CIO for many of the areas identified by the auditors and additional efforts will continue.

**Post-Hearing Questions Submitted by
Senator Daniel K. Akaka
For the Nomination of Tracy Henke to be
Executive Director, Office of State and Local Government Coordination and Preparedness,
Department of Homeland Security**

1. You stated that you were not consulted on the termination of Larry Greenfeld, Director of the Bureau of Justice Statistics (BJS), nor did you seek out information on why Mr. Greenfeld was terminated even though Mr. Greenfeld reported directly to you. Do you believe that supervising and reviewing the performance of subordinate employees is important to being a good manager?

RESPONSE I do believe that supervising and reviewing the performance of subordinate employees is vitally important to being a good manager and a good leader.

2. It is my understanding that Larry Greenfeld reached an agreement with Assistant Attorney General Deborah Daniels prior to assuming the politically appointed position of Director of Bureau of Justice Statistics that if the political job did not work out he could return to the civil service to finish his career. At the staff interview prior to your confirmation hearing, you stated that you believe Mr. Greenfeld is a "talented individual." Do you believe that Mr. Greenfeld should be allowed to return to a career position in BJS, and if so, do you believe that, as his supervisor, it is your responsibility to help him get his job back?

RESPONSE It is my understanding that Mr. Greenfeld exercised an option that would allow him to return to a position in the career Senior Executive Service once his term as a Presidentially-appointed, Senate-confirmed position ended.

3. Principle Two of the National Research Council's Principles and Practices for a Federal Statistical Agency states, "To have credibility, a (federal statistical) agency must be (free) and must be perceived to be free of political interference and policy advocacy." Do you agree that the perception of independence is just as important to the efficacy of a statistical agency as actual independence?

RESPONSE Integrity and reliability of statistical analyses are paramount. It is the integrity and reliability of the statistics that will ultimately define the efficacy of a statistical organization as well as how it is perceived.

4. Because federal grants are based on various statistical reporting, including ethnic and racial statistics, these statistics must be free and be perceived as free from manipulation or political influence in order to ensure the integrity of government grants.

- a. How will you ensure that decisions on awarding state and local grants are based on information free from political influence?

RESPONSE I commit that the awarding of state and local grants will follow the law and regulations.

- b. What criteria must statistical information meet before it is used as a basis for any decision-making on your part?

RESPONSE As I have done in the past--and would continue to do--I would use statistical information whose methodology used to obtain the statistics followed generally accepted research and statistical standards.

- c. How would allegations regarding the suppression of key data or a disclosure of skewed methodology affect your reliance on such statistical reports?

RESPONSE Integrity and reliability of statistical information is paramount. If it was verified that the methodology used was faulty, then the integrity and reliability of the statistical information is compromised.

- d. If employees at DHS questioned the accuracy and independence of the information relied upon in the grant-making process, what rights or remedies would they have if retaliated against for openly questioning the information?

RESPONSE I would encourage employees to share their concerns with me on this issue and other issues. I do not condone retaliation.

- 5. In the staff interview prior to the hearing, you indicated that you had listened in on a phone call between Mr. Greenfeld and a reporter from the New York Times without notifying the reporter that you were listening to the conversation. You further indicated that Mr. Greenfeld objected to you listening to that phone conversation but that you insisted on listening in because the Assistant Attorney General, Deborah Daniels, asked you to do so.

- a. How did you learn of the proposed call between the reporter and Mr. Greenfeld?

RESPONSE I learned of the possible interview through OJP's Communications Office which was contacted about the request.

- b. How did the Assistant Attorney General learn of the call?

RESPONSE I assume that the Assistant Attorney General either learned of the call from me or from OJP's Office of Communications.

- c. What objections did Mr. Greenfeld raise to you listening to that conversation?

RESPONSE I do not recall objections that might have been raised.

- d. What reasons did the Assistant Attorney General give for her insistence that you listen in on that conversation?

RESPONSE I do not recall all of the specifics, but I do know that concerns existed about the accuracy of information being reported by the press and that the Assistant Attorney General wanted a very detailed report on the interview since she was anticipating that she might also be asked questions on the subject.

- e. Was it standard practice for you to listen in on such conversations?

RESPONSE No.

- f. Had you listened in on conversations before with reporters without notifying them that you were listening in?

RESPONSE No.

- g. Has the Assistant Attorney General or any one else in an superior position to yours asked you to listen in on conversations with reporters in the past and, if so, when and in what context?

RESPONSE I do not recall a request other than the one referenced above.

- 6. In your staff interview, you indicated that you had been informed by Jan Williams, White House Liaison to the Department of Justice, sometime after June that Mr. Greenfeld was going to be removed from his position. You also stated that "I do not know what went into the justifications for his removal." You did state that prior to that notification you had a conversation with Ms. Julie Myers, then Special Assistant to the President for Presidential Personnel, about Mr. Greenfeld.
 - a. Did you contact Ms. Myers or did she contact you concerning Mr. Greenfeld?

RESPONSE As stated previously, Ms. Myers and I did not have any specific conversation regarding Mr. Greenfeld. Ms. Myers and I did have conversations regarding general information about the Presidentially-appointed, Senate-confirmed positions in OJP.

- b. Did you discuss this with Ms. Myers over the phone or did you meet in person with Ms. Myers? If in person, where did you meet and was this the only time that you had a personal contact with Ms. Myers concerning Mr. Greenfeld?

RESPONSE As stated previously, Ms. Myers and I did not ever have a conversation specific to Mr. Greenfeld. Ms. Myers and I discussed on the phone general information about the Presidentially-appointed, Senate-confirmed positions in OJP.

- c. What did you tell Ms. Myers about Mr. Greenfeld and how did she respond?

RESPONSE As stated previously, Ms. Myers and I have not had any specific conversations about Mr. Greenfeld.

- d. If Ms. Myers initiated the contact, did you ask her why she was contacting you concerning your subordinate and/or did she give an explanation for so doing?

RESPONSE As stated previously, Ms. Myers and I have not had any specific conversations about Mr. Greenfeld.

- 7. You stated that you learned of the press release concerning the 2005 Bureau of Justice Statistics report "Contacts between the Police and Public" from Ms. Lizette D. Benedi, a political appointee assigned as your deputy. Ms. Benedi was later appointed to the position you held as Deputy Assistant Attorney General for the Office of Justice Programs. You testified that Ms. Benedi had contacted you while you were on travel concerning the content of the press release and her proposed changes to the press release.

- a. Was it usual for her to contact you while on travel concerning a press release?

RESPONSE To clarify, Ms. Benedi was not later appointed to the position of Deputy Assistant Attorney General for OJP. Ms. Benedi served as the Deputy prior to my arrival as Acting Assistant Attorney General and continued under my tenure.

Ms. Benedi and other immediate staff and senior staff would often contact me on travel for a variety of reasons, including to update me on that day's activity.

- b. Did she fax you a copy of the press release, email you a copy, or discuss it verbally on the phone?

RESPONSE As stated previously, I believe Ms. Benedi informed Mr. Greenfeld that I was on travel and that the two of them could discuss the issue with me upon my return. I was not provided a copy of the draft release on travel.

- c. Following your return to Washington D.C., did you meet with Ms. Benedi and/or Mr. Greenfeld concerning the drafting of the press release?

RESPONSE As stated previously, I did meet with Mr. Greenfeld and Ms. Benedi concerning the draft press release.

- d. If you met with them upon your return to Washington, why did Ms. Benedi contact you on travel instead of waiting for your return to Washington to raise this issue?

RESPONSE As stated above, Ms. Benedi informed Mr. Greenfeld that I was on travel and that the issue would be discussed upon my return.

- e. What explanations did Ms. Benedi give to you for making the proposed changes?

RESPONSE Ms. Benedi communicated to me that she proposed the changes because the draft press release as presented did not accurately portray the information contained in the underlying report.

- f. Had Ms. Benedi made substantive changes to previous press releases from the Bureau of Justice Statistics and if so, to which press releases and what were the changes?

RESPONSE In her role as Deputy Assistant Attorney General, Ms. Benedi would have received and potentially edited numerous press releases. I do not recall what press releases Ms. Benedi specifically edited.

- g. Was the Office of Communications under Ms. Benedi's supervision, and, if not, was it normal practice for the Office of Communications to transmit press releases to Ms. Benedi for her review and approval?

RESPONSE The supervision of the Office of Communications fell to the Office of the Assistant Attorney General. Therefore, Ms. Benedi, in her capacity as Deputy Assistant Attorney General, provided supervision to the Office of Communications. It was and is standard practice for the Office of Communications to transmit press releases to the Office of the Assistant Attorney General for review and approval—that included Ms. Benedi as a Deputy during her service.

- h. Did the Office of Communications work with the Bureau of Justice Statistics in the original drafting of the press release prior to its transmittal to your office?

RESPONSE Yes

- 8. Tribal governments report that although the critical infrastructure, international borders, and populations that reside on tribal land are incorporated in state homeland security plans and grant applications, most states do not allocate a corresponding level of funding to the tribes.

- a. How will you ensure that Indian tribes, at least twenty-eight of which inhabit land on or easily accessible to the Mexican and Canadian borders, receive an adequate amount of homeland security funding?

RESPONSE It is my understanding that the Department's Office of Grants and Training (formerly Office of State and Local Government Coordination and Preparedness) has been working with state governments to ensure all local units of government and tribal nations are equally represented in the various G&T managed grant programs. All of the grant language incorporates tribal nations as eligible applicants for homeland security funds. Although the current process requires the Governor to appoint a State Administrative Agent (SAA) to apply for the grant, 80 percent of the funds are required to be passed-on to local and tribal governments. It is, however, ultimately each respective State's responsibility to make the decision and prioritize which

jurisdictions receive funds, based on their assessment of current capabilities and state priorities. If confirmed, I look forward to meeting with you and discussing the issue in further detail.

- b. Do you agree that Indian tribes are sovereign entities that have a unique relationship with the federal government which frequently includes direct federal to tribe funding?

RESPONSE Yes, the Office of Grants and Training (G&T) recognizes that tribes are sovereign nations that often receive direct federal-tribe funding, such as the COPS program through the Department of Justice. However, grants in the Homeland Security Grant Program (HSGP) are currently congressionally mandated state-based grants, in which all funding allocations are coordinated through the SAA.

This year, in efforts to develop the National Preparedness Goal, states are required to assess their current capabilities and develop state priorities that align with the National priorities. Local jurisdictions, to include tribal nations, should be included in this assessment of state needs. The expanded regional collaboration priority highlights the need for embracing partnership across multiple jurisdictions, regions, and states in building capabilities cooperatively. Successful regional collaboration allows for a multi-jurisdictional and multi-disciplinary approach to building capabilities for all four mission areas, spreading costs, and sharing risk across geographic areas.

- 9. The Emergency Management Performance Grant Program (EMPG) is the only source of federal funding to states and localities for all-hazard emergency management preparedness and response. Most grant recipients use the money to fund key emergency management personnel positions that could not be filled otherwise. In Hawaii, 50 percent of the State Civil Defense staff are funded through these grants. According to the National Emergency Management Association and officials in Hawaii, the Office of Management and Budget is pursuing a 25 percent cap on the amount of EMPG funds that can be used for salaries and other personnel expenses. If this happens, states and localities would lose a significant number of their trained staff. This would severely cripple emergency management capabilities. Would you oppose a cap on the percentage of EMPG funding that can be used for personnel?

RESPONSE The Department recognizes the criticality of the Emergency Management Performance Grants (EMPG) at the state and local level. With these funds, states have the opportunity to support the emergency management initiatives and structure individual emergency management programs based on identified needs and priorities for strengthening their capabilities.

As well, the state initiatives must be inclusive of local programs and input. The Department expects the states to engage local emergency management organizations when determining appropriate funding allocations.

While the Department does provide some of the funding for these critical positions through the EMPG program, state and local governments must also share in the responsibility of providing for the safety and security of their citizens. As such, they should look to leverage other federal funding

as well as state and local funding options.

10. During your tenure at the Department of Justice, what were your major accomplishments and which programs did you initiate?

RESPONSE My time at the Department of Justice serving as the Principal Deputy Assistant Attorney General for the Office of Justice Programs, Deputy Associate Attorney General, and the Acting Assistant Attorney General for the Office of Justice Programs has been very rewarding. I had the opportunity to initiate and lead the development of a component-wide management plan and saw the completion of numerous management initiatives. I oversaw the implementation of the National Public Safety Officer Medal of Valor Act and served as the federal point of contact for three years which allowed me to work with the Board members representing the public safety officer community and the amazing award recipients. Working with several individuals, developed the President's Family Justice Center Initiative and am now able to see Family Justice Centers opening throughout several states. In addition, knowing of the technology advances made in communications, developed the concept of the National Public Sex Offender Registry that the Attorney General announced in the spring of 2005. To date, 40 states are now linked to the system providing citizens access to public sex offender registry information by accessing one website. These are just a few of the activities that have made my time at the Department of Justice very rewarding.

**Post-Hearing Questions Submitted by
Senator Frank Lautenberg
For the Nomination of Tracy Henke to be
Executive Director, Office of State and Local Government Coordination and Preparedness,
Department of Homeland Security**

1. Do homeland security funding formulas legislated by Congress assist the Department of Homeland Security in security the American public?

RESPONSE While it is important to maintain some level of minimum homeland security funding, we must prioritize our efforts based on risk and need. FY 2006 marks the first grant cycle in which the National Preparedness Goal is in place to outline National Priorities and focus expenditures on building and sustaining capabilities. The Goal and the tools that support it allow the Nation to define target levels of performance and measure progress made toward achieving them. The Goal is a significant evolution in the approach to preparedness and homeland security, presenting a collective vision for national preparedness and establishing National Priorities to guide the realization of that vision to meet the Nation's most urgent needs.

2. Under the Fiscal Year 2006 Homeland Security Appropriations bill, Secretary Chertoff is given discretion over 82 percent of the funds in the Homeland Security Grant program. Would a formula limiting this discretion help or hinder DHS in providing security to the American public?

RESPONSE I believe that a formula limiting the Secretary's discretion would hinder DHS' ability to provide a more secure America. Having discretion over the majority of funds allows the Secretary to deal with the dynamic elements of risk. Funding from the FY06 Homeland Security Grant program allows the Department to allocate funding to areas with the greatest risk and need, and ensures that the three elements of consequences, vulnerability and threat need to be factored into the equation. We must prioritize our efforts based on risk, and we must invest wisely to ensure timely and effective improvement in maximizing the security of our homeland.

3. In distributing grants to our first responders, do you think every State requires a minimum amount that they must be guaranteed to receive? If so, what should that minimum be?

RESPONSE Yes, I believe every state should receive a minimum amount of funding. I support the President's FY 2006 budget request, which included a minimum funding level of .25 percent. While the large majority of funds should be distributed based on risk and needs, guaranteed funding levels should allow States to advance their levels of preparedness. The States can plan for and use this known base amount to help sustain their most critical homeland security programs and capabilities. Further, we should not forget that homeland security is a shared responsibility. The funds provided by the Federal government should supplement and not supplant funds that States and localities will dedicate to homeland security.

From: Henke, Tracy (SMO)
Sent: Wednesday, April 06, 2005 7:29 PM
To: McCallum, Robert (SMO); Sampson, Kyle; Etwood, Courtney
Subject: FW: Press release

Larry's last response to me.

-----Original Message-----

From: Greenfeld, Larry
Sent: Tuesday, April 05, 2005 9:34 AM
To: Henke, Tracy (SMO)
Subject: RE: Press release

I appreciate your understanding of the dilemma. I do think it is a different question I am asking about the role of stats agencies and the Federal statistical system as described in the President's budget and related OMB guidance. Though the thinking of the Research and Stats Board is certainly valuable, OMB determines what national statistical policy is. That is why every question we ask the public must be vetted by OMB. That is why every rule and procedure for data collection and every minute of burden we place on the public for submitting statistical information must be managed and controlled by OMB. What we produce at BJS are the government's official numbers, there are no disclaimers on any number we produce (like NIJ has on every report), and OMB is the guarantor and protector of those numbers. My decision to withhold a press release was a decision about the manner in which we inform the public of national statistical data. I am not certain what circumstances should be present to dictate the use or content of a press release---would it be acceptable, for example, for Bureau of Labor Statistics to not put out a press release on the unemployment rate? What is my obligation with respect to a press release when the crime rate goes up (as it surely will sometime) which will undoubtedly spark major anxieties among the policy folks. While OMB tells me what principles should underlie our work at BJS, I think we need to operationalize some of these principles to help guide me and other agency heads when press release issues arise; these actions have to be uniform across the entire Federal statistics system or we diminish the integrity of the statistics for the public.

-----Original Message-----

From: Henke, Tracy (SMO)
Sent: Monday, April 04, 2005 6:23 PM
To: Greenfeld, Larry
Cc: Benedi, Lizette
Subject: RE: Press release

Larry:

Thanks for your response. I appreciate your commitment and dedication to your work and to BJS. As I have mentioned, I have the utmost respect for you and your staff.

I urge strongly that before you go to OMB you bring this matter to the Research and Stats Board for discussion. This would not preclude you from later raising the issue with the Chief Statistician at OMB, but it would ensure that internal DOJ matters and discussions are done in order. Before taking something to the WH for consideration and discussion, we should at least have a broader discussion within the Department.

Thanks for your cooperation. I appreciate it.
Tracy

-----Original Message-----

From: Greenfeld, Larry
Sent: Monday, April 04, 2005 4:05 PM
To: Henke, Tracy (SMO)
Subject: RE: Press release

Tracy: In terms of not issuing a press release, it was resolved. I feel uncomfortable with my decision to not put out a press release and that is why I am curious about how other Federal stats agencies work in this regard. The discussion among statistical agency heads who compose the Federal statistical system is independent of any discussions in the Department's board. I am curious about how stats agencies, as supervised by OMB's chief statistician, are supposed to handle the obvious potential for conflict between a policy arm and the statistics arm which by OMB guidance are supposed to be independent of one another. The same potential for conflict exists between any Federal statistical agency and its host agency. I am much more concerned about the applicable principles that I should bear responsibility for when GAO or the IG or the National Academy of Sciences or any external review is conducted and that I am following the proper guidance which is foundational to the statistics enterprise across the government. At my confirmation hearing in the Senate, this was the single question I was asked in several different ways and, after many years at this job, I am not sure what the right response is when conflict arises. That is the principle I am trying to derive from the Chief Statistician and from my sister agencies in the Federal Statistical System.

Larry

-----Original Message-----

From: Henke, Tracy (SMO)
Sent: Monday, April 04, 2005 3:32 PM
To: Greenfield, Larry
Cc: Benedi, Lizette
Subject: Press release

Larry:

Lizette shared with me your email regarding the press release we discussed. I thought this issue was resolved.

Before going to OMB, I would suggest that you take the issue to the Department's research and stat board. When is the meeting you referenced? We will be having a research/stats meeting in the next couple of weeks. Thanks in advance for your cooperation. Tracy



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

MAY 30 2002

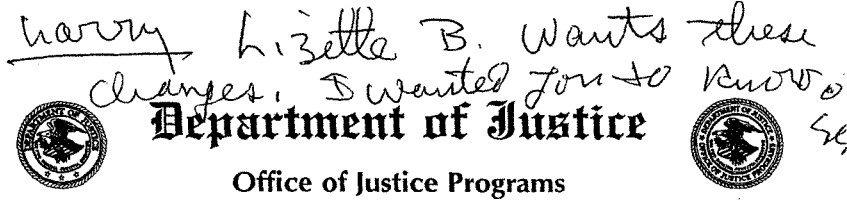
MEMORANDUM FOR: All Bureau and Office Heads

FROM: Deborah J. Daniels *DJD*
Assistant Attorney General

SUBJECT: Publication Clearance Process

The following clearance process will be used in the review of publications prepared by the Bureaus and Offices within the Office of Justice Programs.

- Draft publication is prepared by the individual Bureau or Office accompanied by an Advance Notification Memorandum. It is the responsibility of each Bureau/Office head to review each publication and verify that the information is accurate, as well as identify any salient details.
- The Bureau or Office submits the Advance Notification Memorandum to the OJP Executive Secretariat (Exec. Sec.), along with the required 12 copies of the publication for distribution to the designated offices within the DOJ.
- The Exec. Sec. ensures that the notification memo is prepared in the proper format and forwards the memo and publication to the AAG for review and signature.
- After the notification memo is approved and signed by the AAG, it is returned to the OJP Exec. Sec. for distribution within OJP and DOJ. The OAAG informs each Program and Office head of when a publication has been transmitted by the AAG to Main Justice. (Publications will be released 30 days after the AAG signs the transmittal letter notification to Main Justice)
- The Exec. Sec. sends the original and three copies to the DOJ Exec. Sec. The original memo is sent to the Associate Attorney General (ASG) for notification.



ADVANCE FOR RELEASE AT 4:30 P.M. EDT
SUNDAY, APRIL 10, 2005

Bureau of Justice Statistics
www.ojp.usdoj.gov/bjs
Contact: Stu Smith 202-307-0784
After hours: 301-983-9354

ONE IN FIVE U.S. RESIDENTS HAD POLICE CONTACT
FORTY PERCENT WERE TRAFFIC STOPS

WASHINGTON — About one in five U.S. residents aged 16 or older had a face-to-face contact with law enforcement officers during 2002. Approximately 40 percent of these contacts were traffic stops, according to the Justice Department's Bureau of Justice Statistics (BJS). In addition, 90 percent of persons who had contact with the police felt the officers acted properly, BJS said in its latest report on contacts between police and the public released today.

Of the nation's 193 million drivers, 16.8 million were pulled over by police (8.7 percent) at least once in 2002 — 10.2 million male drivers and 6.6 million female drivers; 12.8 million whites, 1.9 million blacks, 1.6 million Hispanics and a half million drivers of other races. The likelihood of being stopped by police in 2002 was about the same for white (8.7 percent), black (9.1 percent) and Hispanic (8.6 percent) drivers. ~~Age was also a factor.~~ About 14 percent of drivers younger than 29 were stopped during the year, compared to about 7 percent of drivers in their 50s and 4 percent of drivers 60 or older. Eighty-four percent of drivers stopped by police felt they had been pulled over for a legitimate reason.

An estimated 45.3 million persons 16 years old or older had a contact with police during 2002 for the following reasons in percentages:

Driver during a traffic stop	37%
Passenger during a traffic stop	3
Traffic accident	13
Reported a crime or problem to police ...	26
Police provided assistance	7
Police investigating a crime	6
Suspected of something by police	3
Other reasons	5

- MORE -

An estimated 54.8 percent of the traffic stops in 2002 were for speeding, 9.3 percent for a vehicle defect (burned out taillight, loud muffler, etc.) and 1.3 percent were roadside checks for drunk drivers. In addition, 11.5 percent of traffic stops were to conduct a record check (driver's license or insurance, for example), 4.4 percent for a seatbelt violation, 4.9 percent for an illegal turn, 7.1 percent for running a stop sign or red light, 4.2 percent for some other traffic offense and 2.1 percent for reasons not given.

~~In 5 percent of traffic stops the driver or the vehicle was searched. Police were more likely to conduct a search on a male (7.1 percent) than a female (1.8 percent) and more likely to carry out a search on a black (10.2 percent) or Hispanic (11.4 percent) driver than a white driver (3.5 percent).~~

The findings in this report are from the 2002 Police-Public Contact Survey, which interviewed a nationally representative sample of 80,000 U.S. residents age 16 or older. This study found that police used or threatened to use force against 1.5 percent of the 45.3 million persons who had contact with police that year. ~~The 1.5 percent is greater than the 1 percent in 1999 against whom force had been used or threatened. In contacts with police during 2002, blacks (3.5 percent) and Hispanics (2.5 percent) were more likely than whites (1.1 percent) to experience force by police.~~ *Do we need this?*

In 2002 about three-quarters of the persons who experienced force by police felt it was excessive. About 14 percent of those surveyed who experienced police use of force were injured. Less than 20 percent of force incidents resulted in people taking formal action against the police, such as a formal complaint or lawsuit.

The report, "Contacts between Police and the Public, Findings from the 2002 National Survey" (NCJ-207845), was written by BJS statisticians Matthew R. Durose, Erica L. Schmitt and Patrick A. Langan. Following publication, the document can be accessed at: www.ojp.usdoj.gov/bjs/abstract/cpfec02.htm. *revised should not be underlined*

BJS
Additional information about Bureau of Justice Statistics statistical reports and programs is available from the BJS website at <http://www.ojp.usdoj.gov/bjs>.

The Office of Justice Programs provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and two offices: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Office of the Police Corps and Law Enforcement Education and the Community Capacity Development Office, which incorporates the Weed and Seed initiative and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at www.ojp.usdoj.gov.

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BJS05010 (I)



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December 7, 2005

The Honorable Susan Collins
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Senator Collins:

On behalf of the nearly 13,000 members of the International Association of Fire Chiefs (IAFC), I am pleased to endorse George W. Foresman for the position of Under Secretary of Preparedness at the Department of Homeland Security.

During his 20-year tenure with the Commonwealth of Virginia, Mr. Foresman has exhibited an extremely high level of knowledge and ability in the area of emergency preparedness. He has been on the front lines of disaster recovery in the state since 1985, coordinating the state's response to events ranging from hurricanes, tornadoes, and winter storms to the attack on the Pentagon on September 11, 2001. Mr. Foresman has consistently demonstrated a depth of understanding of local government needs in his service to the state and as vice-chair of the Advisory Panel to Assess Domestic Response Capabilities Involving Terrorism. He appreciates the fact that preparedness is a system that includes the local, state, and federal governments.

The members of the IAFC have great respect for officials who have served on the front lines of all types of disasters – including natural and man-made – and who appreciate the local government perspective. That experience will be critical to making the new Preparedness Directorate a success. All national plans and requirements, including the National Response Plan and National Incident Management System, recognize that first responders fit into a national response framework; however, these plans must be clearly understood and implemented at the state and local levels. The response to Hurricane Katrina proved this point. A successful response begins at the local level, even during an event of national consequence.

Thank you for your consideration. I hope that your committee and the full Senate will vote to approve Mr. Foresman expeditiously.

Sincerely,

Chief William D. Killen
President

/wgs

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



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TTY USERS CALL VIA MD RELAY

November 9, 2005

The Honorable Susan Collins, Chairwoman
Homeland Security and Governmental Affairs Committee
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Joseph Lieberman, Ranking Member
Homeland Security and Governmental Affairs Committee
United States Senate
604 Hart Senate Office Building
Washington, DC 20510

Dear Chairwoman Collins and Ranking Member Lieberman:

I am writing to express my strong support for the nomination of Mr. George Foresman to be Under Secretary for Preparedness at the U.S. Department of Homeland Security.

Mr. Foresman is a highly respected, veteran emergency management professional with more than twenty years of emergency preparedness experience. Most recently, he served as an Assistant to the Governor of Virginia for Commonwealth Preparedness and was responsible for the Commonwealth's emergency and disaster preparedness activities.

I believe Mr. Foresman is an excellent choice to serve as Under Secretary for Preparedness at the U.S. Department of Homeland Security. He has served under Republican and Democrat Governors in Virginia and his dedication and professionalism are unquestioned. He has worked very closely with our homeland security team in Maryland to address regional issues and has been a reliable partner in the development of the \$171 million Urban Area Security program. His experience at the State level as well as his service on the Gilmore Commission that produced framework documents for national Homeland Security policy will provide valuable perspective to the Department.

Again, I want to express my strong support for the nomination of Mr. George Foresman and urge that he be confirmed in a timely manner. If I can be of assistance in any way, please let me know.

Very truly yours,

Robert L. Ehrlich, Jr.
Robert L. Ehrlich, Jr.
Governor



NATIONAL ASSOCIATION OF EMERGENCY MEDICAL TECHNICIANS
Post Office Box 1400 • Clinton, Mississippi 39060-1400
Phone: 800-34-NAEMT or 601-924-7744 • Fax: 601-924-7325
Website: www.NAEMT.org

November 12, 2005

The Honorable Susan M. Collins
Chair
Senate Homeland Security and Governmental Affairs Committee
340 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Joseph I. Lieberman
Ranking Member
Senate Homeland Security and Governmental Affairs Committee
604 Senate Hart Office Building
Washington, DC 20510

Dear Senator Collins and Senator Lieberman:


The National Association of Emergency Medical Technicians (NAEMT) strongly endorses the nomination of Mr. George Foresman to be the first Under Secretary of Preparedness for the U.S. Department of Homeland Security, and we encourage expeditious confirmation by the Committee. NAEMT represents the interests of the country's more than 890,000 EMT's & Paramedics who daily serve their communities and this nation bravely and diligently.

Mr. Foresman is a well known and widely respected EMS, emergency management and homeland security professional with over 25 years of experience in public safety. Furthermore his experience as an emergency responder especially that of a Paramedic, make him a very desirable and highly appropriate candidate for this very important position. George brings with him real world experience, leadership and vision to the position of Under Secretary for Preparedness. Over the years, Mr. Foresman has been an advocate for and a practitioner of all hazards emergency preparedness, to include terrorism. He has a broad perspective on national preparedness that appropriately recognizes the roles and responsibilities of all levels of government and the emergency preparedness and response disciplines who are key partners at the state and local level. NAEMT is fully satisfied that George Foresman is the optimal person to effectively work with all stakeholders in the coordination of all preparedness functions throughout DHS.

NAEMT is committed to working closely with Mr. Foresman to achieve our national preparedness goals and objectives. He is the right man, at the right time, to do the job right. We fervently endorse the nomination of George Foresman to serve as Under Secretary for Preparedness at DHS.

If you have questions, please don't hesitate to contact me at (800) 34-NAEMT. Thank you.

Sincerely,



Jerry Johnston
NAEMT President-Elect

Cc: DHS Secretary Michael Chertoff
DHS Deputy Secretary Michael P. Jackson

November 9, 2005

The Council of
State Governments
Headquarters Office



The Honorable Susan M. Collins
Chair
Senate Homeland Security and Governmental Affairs Committee
340 Senate Dirksen Office Building
Washington, D.C. 20510

President
Governor Ruth Ann Minner, DE

Chair
Assemblyman Lynn Hettrick, NV

Executive Director
Daniel M. Sprague

The Honorable Joseph I. Lieberman
Ranking Member
Senate Homeland Security and Governmental Affairs Committee
604 Senate Hart Office Building
Washington, D.C. 20510

Dear Senator Collins and Senator Lieberman:

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(916) 553-4423
www.csgwest.org

Washington Office
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444 N. Capitol Street, N.W.
Suite 401
Washington, DC 20001
(202) 624-5400

The Council of State Governments (CSG) strongly supports the nomination of Mr. George Foresman to be the first Under Secretary of Preparedness for the U.S. Department of Homeland Security.

Mr. Foresman is well known throughout the state and local government community as a person of vision, leadership and "hands on" experience in emergency management. He is widely regarded as an articulate and thoughtful homeland security professional with more than two decades of proven public safety expertise.

Mr. Foresman certainly understands both the complexity and urgency of true intergovernmental partnership in all hazards preparedness. As Under Secretary of Preparedness for the U.S. Department of Homeland Security, Mr. Foresman will bring instant credibility to this most important and demanding position.

Having worked closely with Mr. Foresman over the years in a variety of capacities, CSG has the utmost confidence in his abilities and we look forward with great anticipation to working closely with him in this new capacity.

As the only national organization of state leaders representing all three branches of state government we strongly support Mr. Foresman's nomination and urge swift confirmation by the Senate.

Assemblyman Lynn Hettrick, Nevada
CSG Chair

Governor Ruth Ann Minner, Delaware
CSG President



National Emergency Management Association

November 2, 2005

President
Mr. Bruce Baughman
Director
State Emergency Management Agency
5896 County Road 41
PO Drawer 2181
Clinton, AL 36045-2180

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Ms. Angela Copple
EMAC Coordinator

Ms. Kristin Cormier Robinson
Government Relations Director

The Honorable Susan M. Collins

Chair

Senate Homeland Security and Governmental Affairs Committee

340 Senate Dirksen Office Building

Washington, DC 20510

The Honorable Joseph I. Lieberman

Ranking Member

Senate Homeland Security and Governmental Affairs Committee

604 Senate Hart Office Building

Washington, DC 20510

Dear Senator Collins and Senator Lieberman:

The National Emergency Management Association (NEMA) strongly endorses the nomination of Mr. George Foresman to be the first Under Secretary of Preparedness for the U.S. Department of Homeland Security, and we encourage swift confirmation by the Committee. NEMA represents state emergency management directors appointed by their governors to be responsible for all hazards emergency preparedness, mitigation, response and recovery.

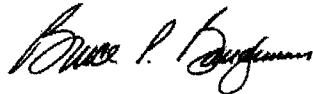
Mr. Foresman is a well known and widely respected state emergency management and homeland security professional with over 20 years of experience in public safety. He brings leadership, vision and on the ground experience to the position of Under Secretary for Preparedness. Over the years, Mr. Foresman has been an advocate for and a practitioner of all hazards emergency preparedness, to include terrorism. He has a broad perspective on national preparedness that appropriately recognizes the roles and responsibilities of all levels of government, and the emergency preparedness and response disciplines who are key partners at the state and local level.

In a letter dated July 27, 2005 NEMA expressed concerns with the DHS 2SR - specifically the proposed separation of preparedness functions from the Federal Emergency Management Agency (FEMA) and establishment of a Preparedness

Directorate within DHS. Congress has since approved the reorganization and while the state emergency management community maintains reservations, we are confident that George Foresman is the best person to successfully implement the reorganization in a way that is inclusive of all stakeholders, comprehensive in the coordination of all preparedness functions throughout DHS, and emphasizes the all hazards approach in partnership with FEMA.

NEMA is committed to working closely with Mr. Foresman to achieve our national preparedness goals and objectives. He is the right man to do the job right. Again, we strongly and unanimously endorse the nomination of George Foresman to serve as Under Secretary for Preparedness at DHS. If you have questions, please don't hesitate to contact me at (205) 280-2201. Thank you.

Sincerely,



Bruce Baughman
NEMA President

Cc: DHS Secretary Michael Chertoff
DHS Deputy Secretary Michael P. Jackson

NEMA OFFICES:
The Council of State Governments
2760 Research Park Drive • P.O. Box 11910 • Lexington, Kentucky 40576-1910 • (859) 244-8000 • FAX (859) 244-8239
WASHINGTON OFFICE:
Hall of the States • 444 North Capitol Street, Suite 401 • Washington, DC 20001 • (202) 624-5459 • FAX (202) 624-5875

JO ANN EMERSON
MEMBER OF CONGRESS
8TH DISTRICT, MISSOURI

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AGRICULTURE, RURAL DEVELOPMENT,
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Congress of the United States
House of Representatives
Washington, DC 20515-2508

October 28, 2005

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(573) 335-0101
612 PINE
ROLLA, MO 65401
(573) 364-2455
22 EAST COLUMBIA
FARMINGTON, MO 63640
(573) 756-9755

The Honorable Susan Collins
461 Dirksen Senate Office Building
Washington, DC 20510

Dear ~~Susan Collins~~:


Please consider this a letter of my strongest support of Ms. Tracy Henke for the post of Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security. I have long known Ms. Henke to be a dedicated, hardworking, and extremely intelligent public servant. She shares your and my commitment to enabling first responders at all levels of government to be prepared, well-integrated, and cohesive in their response to any emergency. Not only are her professional qualifications immaculate, but I have known Tracy personally for many years. She is a strong-willed, tough-minded woman who knows how to manage people, projects and resources to the benefit of her office and our nation. Ms. Henke is also intelligent, personable, flexible and thorough. All of these great qualities have served her well throughout her illustrious career – and Ms. Henke has not yet encountered a challenge which she cannot meet.

As Deputy Associate Attorney General and Acting Assistant Attorney General at the U.S. Department of Justice, Ms. Henke has repeatedly demonstrated her regard for the law and her enthusiasm for law enforcement. She has guided programs of national significance, such as the Amber Alert Program, in her efforts to make our nation safer for our citizens. In addition to her extensive legal credentials, Ms. Henke possesses a significant public policy background from her years of service as a senior staff member in the U.S. Senate. She is able to approach decisions from both policy and legal perspectives, an invaluable combination.

I should also add that Ms. Henke will make an excellent Executive Director at the Office of State and Local Government Coordination and Preparedness because she knows the separate challenges facing rural and urban areas of our country on homeland security. Her complete background would be a tremendous boon to our national preparedness and our overall homeland security.

I appreciate your attention to Ms. Henke's appointment to this important position. If I am able to provide any further information about her qualifications, expertise or excellent character, please do not hesitate to contact me directly.

Sincerely,


JO ANN EMERSON
Member of Congress

KENNY HULSHOF
9TH DISTRICT, MISSOURI
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SOCIAL SECURITY
SUBCOMMITTEE ON HEALTH
HOUSE REPUBLICAN POLICY COMMITTEE
HOUSE BUDGET COMMITTEE



Congress of the United States
House of Representatives
Washington, DC 20515

November 3, 2005

WASHINGTON OFFICE:
412 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3958

DISTRICT OFFICES:
33 EAST BROADWAY STREET, SUITE 280
COLUMBIA, MISSOURI 65203
(873) 449-5111

201 NORTH 3RD STREET, SUITE 240
HANNIBAL, MISSOURI 63401
(573) 221-1200

518 JEFFERSON STREET
WASHINGTON, MISSOURI 63090
(800) 238-4001

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

The Honorable Joseph Lieberman
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Collins and Ranking Member Lieberman:

I am writing to express my strong support for the nomination of Ms. Tracy Henke to the position of Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

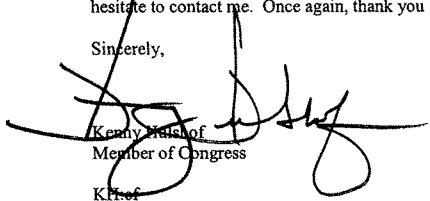
I first became acquainted with Ms. Henke in her role as a senior policy advisor to U.S. Senator Christopher "Kit" Bond (R-MO). In that position, I was impressed by her professionalism, dedication, and expertise. She demonstrated an ability to build coalitions and displayed excellent leadership on projects of significant importance to the state of Missouri.

In her tenure at the Department of Justice (DOJ), Ms. Henke has continued her exemplary public service career. As the Deputy Associate Attorney General and Acting Assistant Attorney General, she has earned the support and respect of firefighters, police officers, and other first responders. Ms. Henke has played a pivotal role in such noteworthy initiatives as the Amber Alert program and Community Oriented Policing Services (COPS). While executing her duties, she has remained focused on good governance through accountability and performance standards.

Given her impressive record of accomplishment, I am pleased to have the opportunity to endorse Ms. Henke's nomination for the Office of State and Local Government Coordination and Preparedness. She has the work experience and personal attributes necessary to make an excellent addition to the Department of Homeland Security. It is my sincere hope that she will be confirmed for this position in an expedient manner.

If I may provide you with any additional information regarding Ms. Henke, please do not hesitate to contact me. Once again, thank you for attention to this matter.

Sincerely,


Kenny Hulshof
Member of Congress

KH:of

Wm. LACY CLAY
1st DISTRICT, MISSOURI

COMMITTEES:
FINANCIAL SERVICES
GOVERNMENT REFORM

Ranking Member,
SUBCOMMITTEE ON TECHNOLOGY,
INFORMATION POLICY,
INTERGOVERNMENTAL RELATIONS
AND THE CENSUS

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E-Mail: www.house.gov/writer/clay/

Congress of the United States
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Washington, DC 20515-2501

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(314) 367-1341 Fax

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St. Louis, MO 63114
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(314) 427-6320 Fax

October 11, 2005

The Honorable Joseph Lieberman
Ranking Democratic Member
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

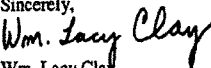
Dear Senator Lieberman:

This is to register my support for the nomination of Tracy A. Henke to be Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

I have been acquainted with Ms. Henke, who is a Missouri native, throughout her career in public service. She is highly talented and motivated individual who has compiled an impressive record of experience with a wide range of local, state and federal government agencies. In her current capacity at the Department of Justice Ms. Henke has developed an extensive knowledge and understanding of the mission of law enforcement that would allow her to be a great asset to Department of Homeland Security.

Tracy Henke has an unqualified commitment to public service, an exceptional professional demeanor and a talent for succeeding in challenging situations. I believe she possesses the professional background and record of achievement to make an outstanding contribution to the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

Thank you for your consideration of my comments on behalf of Ms. Henke's nomination. If I might provide any additional information please feel free to let me know.

Sincerely,

Wm. Lacy Clay
Member of Congress

WLC/mlb

EMANUEL CLEAVER, II
5th District, Missouri
emanuel.cleaver@mail.house.gov
http://www.house.gov/Cleaver

FINANCIAL SERVICES COMMITTEE

SUBCOMMITTEE ON HOUSING AND
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SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS



Congress of the United States
House of Representatives
Emanuel Cleaver, II
October 20, 2005

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(816) 471-5215 (FAX)

INDEPENDENCE OFFICE:
211 WEST MAPLE AVENUE
INDEPENDENCE, MO 64050
816-833-4545 (PHONE)
816-833-2991 (FAX)

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

The Honorable Joseph Lieberman
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Collins and Ranking Member Lieberman:

I am writing to express my strong support for the nomination of Tracy A. Henke to be Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

I had the pleasure of working with Tracy when I was Mayor of Kansas City and she was an aide to Senator Kit Bond. More recently, I have had the opportunity to work with Tracy in her current capacity at the Department of Justice. She is the consummate professional – talented, motivated, and dedicated. Furthermore, I have always found Tracy to be an individual of outstanding character and integrity who has demonstrated a personal and professional record of leadership and commitment to public service.

During her tenure at the Department of Justice, Tracy has developed an impressive understanding of and beneficial relationship with the law enforcement community that would serve her well at the Office of State and Local Government Coordination and Preparedness. Her prompt confirmation would benefit the Department of Homeland Security as well as the American people.

Thank you for your consideration. Please do not hesitate to contact me if I may be of further assistance.

Sincerely,

EMANUEL CLEAVER, II
Member of Congress

ROY BLUNT
MEMBER OF CONGRESS
7th District, Missouri

MAJORITY WHIP

COMMITTEE ON
ENERGY AND COMMERCE

STEERING COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515

217 CANNON HOUSE OFFICE BUILDING
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H-329, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-0197
FAX: (202) 225-1115

December 5, 2005

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security and Government Affairs
United States Senate
Washington, D.C. 20510


The Honorable Joseph Lieberman
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Collins and Ranking Member Lieberman:

I would like to recommend for your consideration Ms. Tracy Henke for the position of Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

Tracy has the determination and creativity to make an impact at the Department of Homeland Security. Additionally, she has extensive public service experience having worked for the Department of Justice and the United States Senate with responsibilities extending from formulating federal, legal and legislative initiatives, devising outreach strategies, drafting sizeable budget plans, and speaking to groups around the country. I have had the pleasure of knowing Ms. Henke when she worked on Capitol Hill for Senator Kit Bond. She is smart, professional and driven, qualities well suited for the challenges of the Department of Homeland Security.

I believe her academic background and professional experience make her a candidate worthy of further consideration. Please do not hesitate to contact me if I can provide any additional information.

Sincerely,

Roy Blunt
House Majority Whip

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SPRINGFIELD, MISSOURI 65804
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FAX: (417) 889-4915

blunt@mail.house.gov
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101 RANGE LINE ROAD, BOX 20
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(417) 781-1041
FAX: (417) 781-2832



STATE OF TEXAS
OFFICE OF THE GOVERNOR
CRIMINAL JUSTICE DIVISION

RICK PERRY
GOVERNOR

September 29, 2005

The Honorable Susan Collins
Chair, Committee on Homeland Security and Governmental Affairs
461 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Collins:

Please consider this letter as a strong recommendation for the confirmation of Tracy A. Henke as the Executive Director of the Office of State and Local Government Coordination and Preparedness, United States Department of Homeland Security. In July, President Bush announced his intention to nominate Ms. Henke to serve in this capacity, and the nomination has been received in the Senate and referred to the Committee on Homeland Security and Governmental Affairs.

I was honored to meet Tracy last year through an associate in Austin. In her current capacity as the Deputy Associate Attorney General for the Department of Justice, Tracy has demonstrated tremendous leadership capability. She oversees the distribution of billions of taxpayer dollars to state and local governments for the improvement of criminal and juvenile justice systems. Tracy's vision and commitment to promote efficiency and effectiveness in justice funding through performance-based measurements and accountability suggests that she is needed at this level of government.

Tracy's integrity as a public servant is evident, and I have no doubt she will continue to serve with distinction and be a great asset to the Department of Homeland Security.

Any assistance you can provide in securing Tracy Henke's confirmation would be greatly appreciated. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken C. Nicolas".

Ken C. Nicolas
Executive Director



NATIONAL SHERIFFS' ASSOCIATION

1450 DUKE STREET • ALEXANDRIA, VIRGINIA 22314-3490
Telephone (703) 836-7827 • Fax (703) 683-6541
nsamail@sheriffs.org • www.sheriffs.org

Sheriff Edmund M. "Ted" Sexton, Sr.
President
Tuscaloosa, Alabama

Thomas N. Faust
Executive Director
Alexandria, Virginia

Sheriff Edmund M. "Ted" Sexton, Sr.
NSA President, 2005-2006
Office of the Sheriff
Tuscaloosa County
714 1/2 Greensboro Ave.
Tuscaloosa, Alabama 35401-1844
(205) 752-0616
Fax: (205) 348-0973
E-mail: tsexton@tuscco.com

August 1, 2005

The Honorable Susan Collins, Chairwoman
Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Madam Chairwoman:

I am writing to you today on behalf of the more than 24,000 members of the National Sheriffs' Association to express our support for the nomination of Tracy A. Henke, to be Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security. As the voice of elected law enforcement, we are proud to lend our support to her nomination and look forward to her confirmation by the Senate.

We believe Ms. Henke's experience with law enforcement and other homeland security personnel gives her the insight she needs to effectively lead the Office of State and Local Government Coordination and Preparedness.

As you know, Ms. Henke currently serves as Deputy Associate Attorney General in the Office of the Associate Attorney General at the Department of Justice. In this position, Ms. Henke is responsible for advising and assisting the Attorney General and the Deputy Attorney General in formulating and implementing Departmental policies and programs pertaining to a broad range of civil justice, federal and local law enforcement, and public safety matters.

Prior to this, and in addition to her duties as Deputy Associate Attorney General, Ms. Henke served as the Acting Assistant Attorney General in the Office of Justice Programs (OJP), where she was responsible for the overall management and oversight of OJP. While at OJP, Ms. Henke was instrumental in helping the department provide federal leadership to develop the nation's capacity to prevent and control crime, administer justice, assist crime victims and improve the criminal and juvenile justice systems.

Sheriff Ted G. Kamatchus
1st Vice President
Marshalltown, Iowa

Sheriff Craig Webre
2nd Vice President
Thibodaux, Louisiana

Sheriff F. DeWayne Beggs
3rd Vice President
Norman, Oklahoma

Sheriff Dan L. Correntino
Secretary
Pueblo, Colorado

Sheriff David A. Goad
Treasurer
Cumberland, Maryland

Sheriff John E. Zaruba
Sergeant-at-Arms
Wheaton, Illinois

Sheriff Wayne V. Gay
Immediate Past President
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Sheriff Aaron D. Kennard
Immediate Past President
Salt Lake City, Utah

Retired Sheriff L. Cary Blinick
Director Emeritus
Forsyth, Georgia

Richard M. Weintraub
NSA General Counsel
Washington, D.C.

Sheriff Dwight E. Radcliff
NSA Corporate Representative
Circleville, Ohio

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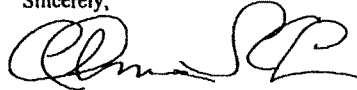
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Sheriff Lee D. Baca Monterey Park, California	Sheriff Gregory C. Champagne Hahnville, Louisiana	*Sheriff Mark J. Justus Scottsdale, Illinois	Sheriff Stephen M. Oakrich Gainesville, Florida	Sheriff Richard C. Treadwell Bath, New York	
Sheriff Ronald "Ron" F. Bell Malvern, Arkansas	Sheriff Paul Fitzgerald Harada, Iowa	Sheriff James A. Karnes Columbus, Ohio	Sheriff Edgar L. Phillips Palmox, Utah	*Sheriff Jerry Wagner Flemingsburg, Kentucky	

Chairwoman Collins
August 1, 2005
Page 2

During her distinguished career, Ms. Henke has also served as the Principal Deputy Assistant Attorney General for the Department's Office of Justice Programs and as a Senior Policy Advisor for U.S. Senator Christopher Bond of Missouri.

Mr. Chairman, the NSA believes Ms. Henke's longtime commitment to law enforcement and the security of our nation make her an ideal candidate for the position of Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security. We are hopeful that Ms. Henke's nomination will be quickly approved by the Senate and we look forward to working with you to ensure that she is confirmed as the next Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

Sincerely,

A handwritten signature in black ink, appearing to read "Edmund Sexton", written in a cursive style.

Sheriff Edmund M. "Ted" Sexton,
President



INTERNATIONAL ASSOCIATION OF FIRE CHIEFS

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TEL: 703/473-0911
FAX: 703/473-9363
www.iafc.org

August 29, 2005

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Collins:

On behalf of the 12,600 chief fire and emergency officers of the International Association of Fire Chiefs (IAFC), I am pleased to endorse Ms. Tracy A. Henke for the position of Executive Director of the Office of State and Local Government Coordination and Preparedness (OSLGCP). The IAFC believes that Ms. Henke is eminently qualified for this position.

Ms. Henke has demonstrated an understanding of the needs of the fire service beginning with her tenure as an aide to Senator Christopher Bond. In that role, Ms. Henke helped the fire service navigate Congress to determine the funding levels for important public safety programs. Ms. Henke also worked for Attorney General Ashcroft. During that time, she helped implement the Public Safety Officer Medal of Valor process to ensure that our nation's firefighters and police officers are honored for extraordinary valor above and beyond the call of duty. During all of her interactions with the fire service, Ms. Henke consistently has impressed our members with her professionalism and dedication.

Based on her past experience with both the fire service and the Department of Justice, we believe that she has the demonstrated knowledge to serve as the OSLGCP's Executive Director. We look forward to working with you as Ms. Henke's nomination progresses through your committee and is considered by the full Senate.

Thank you for your consideration.

Sincerely,

William D. Killen

Chief William D. Killen
President



NATIONAL ASSOCIATION OF STATE FIRE MARSHALS
Executive Committee

September 9, 2005

Senator Susan Collins
Chairman
Homeland Security and Governmental Affairs Committee
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510-6250

Dear Chairman Collins:

The National Association of State Fire Marshals (NASFM) consists of senior public safety officials from individual States and the District of Columbia. Our mission is to protect life, property and the environment from fire and other hazards. We write to you in support of the nomination of Ms. Tracy A. Henke as Executive Director of the Office of State and Local Government Coordination & Preparedness for the U.S. Department of Homeland Security (DHS).

DHS needs an infusion of thoughtful and committed leadership at this time, and we believe that the Committee should recommend prompt confirmation of Ms. Henke. We have found her to be fair, insightful and honestly committed to all emergency responders.

We also write, however, to express our frustration that, once again, no fire service leader was considered adequate to serve in a senior position at DHS. Attorneys General and members of the judiciary typically are lawyers. Members of the Joint Chiefs must come from the military. While many distinguished law enforcement officers have and are now serving in key DHS positions, they bring very different credentials than would firefighters.

If Ms. Henke is confirmed, we pledge our organization to work with her in the following three areas, among others, that we regard as crucial to the safety and security of our nation. These are the same areas where far too little progress has been made since the creation of DHS following events of September 11, 2001.

- Achieving true coordination and cooperation among the various branches of public safety. Some of the challenge is cultural, some exists because of bureaucracy. At the most fundamental levels – and as demonstrated again in New Orleans – emergency communications interoperability does not exist in most

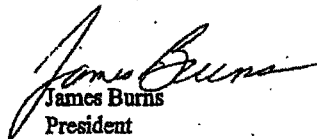
Chairman Collins
September 9, 2005
Page 2

places in spite of an extraordinary infusion of Federal dollars. We need DHS leadership here.

- Marshalling and coordinating Federal resources to prevent or limit the damage caused by incidents. Many branches of the US Department of Transportation provide examples of how to work with emergency responders on incident prevention initiatives. The General Services Administration, however, routinely opposes and often succeeds in blocking important amendments to the model national building and fire codes, which are the foundation of safety for health care facilities, schools, office buildings, homes and places of worship and assembly nationwide. We need DHS's active involvement here.
- Understanding and addressing the special needs of rural communities. As is commonplace, insufficient media attention has been paid to the effects of Hurricane Katrina in rural Louisiana, Alabama and Mississippi. But quite apart from national disasters, rural communities have difficulties with every day house and wild land fires and other such incidents. We need DHS's guidance and support in better addressing the needs of rural emergency responders.

We thank you for your prompt consideration of Ms. Henke's nomination, and for all that you and the Members of the Senate Homeland Security and Governmental Affairs Committee have done in the name of public safety and security.

Sincerely,



James Burns
President

cc: Members of the Committee
John Dean, Maine State Fire Marshal



GRAND LODGE
FRATERNAL ORDER OF POLICE®

309 Massachusetts Ave., N. E.
Washington, DC 20002
Phone 202-547-8198 • Fax 202-547-8190

CHUCK CANTERBURY
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

2 September 2005

The Honorable Susan M. Collins
Chairman
Committee on Governmental Affairs and Homeland Security
Washington, D.C. 20510

Dear Madam Chairman,

I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our strong support for the nomination of Tracy A. Henke to be Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

The F.O.P. began its relationship with Tracy in June 2001, when she joined the Justice Department as the Principal Deputy Assistant Attorney General for the Office of Justice Programs (OJP). In October 2003, she was appointed as the Deputy Associate Attorney General and, in this role, provided oversight, guidance, policy direction, and assistance to several Justice Department components including the OJP and the Office of Community Oriented Policing Services (COPS). Since January 2005, Tracy has also served as the Acting Assistant Attorney General (Acting AAG) for OJP and the National AMBER Alert Coordinator. As Acting AAG, Ms. Henke was responsible for overall management and oversight of OJP; guided the development of OJP policy and priorities; promoted coordination among OJP Bureaus and support offices; and ensured that OJP policies and programs reflected the priorities of the President, the Attorney General, and the Congress. As the National AMBER Alert Coordinator, Ms. Henke was responsible for encouraging coordination of regional, state, and local efforts to establish AMBER Alert plans to aid in recovering abducted children.

During her tenure, Tracy has proven to be a true friend and asset to the law enforcement community. She has consistently reached out to the F.O.P. for our input in the early stages of policy development, which has benefited both the Department and rank-and-file officers. We have been particularly pleased with her accessibility, responsiveness, and leadership following the F.O.P.'s request that the Justice Department take a lead in addressing the potential failures in soft body armor manufactured with a material known as Zylon. While we will certainly miss her at the Justice Department, we feel that her close relationship with the law enforcement community, her extensive experience, and strong leadership will be an incredible asset at the Office of State and Local Government Coordination and Preparedness and we look forward to working with her in that role.

On behalf of the more than 321,000 members of the Fraternal Order of Police, I am proud to support Tracy's for this post, and urge the Committee to expeditiously approve her nomination. If I can provide any further recommendations for Tracy, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,

Chuck Canterbury
Chuck Canterbury
National President

—BUILDING ON A PROUD TRADITION—





City of Seattle

Gregory J. Nickels, Mayor

Seattle Police Department

R. Gil Kerlikowske, Chief of Police

July 13, 2005

Ms. Tracy A. Henke
Deputy Associate Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Deputy Associate General *Tracy* Henke:

I want to take this opportunity to congratulate you on your pending nomination as Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security. On behalf of the Seattle Police Department, I could not be more pleased with President Bush's choice for this important position. Your commitment and dedication to law enforcement is well known to those of us in the field.

As Vice President of the Major Cities Chiefs I also know of your untiring efforts in improving our profession and ensuring the safety of our officers. I look forward to supporting your nomination.

Sincerely,

R. Gil Kerlikowske
Chief of Police

cc: Secretary Chertoff



Seattle Police Department, 610 Fifth Avenue, PO Box 34986, Seattle, WA 98124-4986

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July 20, 2005

Senator Joe Lieberman and Senator Susan Collins
 Senate Committee on Government Affairs
 109 Hart Senate Office Building
 Washington, D.C. 20510

Dear Senators Lieberman and Collins,

The Mid-America Regional Council (MARC) encourages your support for the nomination of Ms. Tracy Henke to be the new Assistant Secretary for the Office of State and Local Government Coordination and Preparedness in the Department of Homeland Security.

MARC is the association of city and county governments and metropolitan planning organization serving the bi-state Kansas City area. Through our Regional Homeland Security Committee, MARC is providing coordination for the investment of \$40 million in federal homeland security grants awarded to our urban area, including the Urban Areas Security Initiative grants for fiscal years 2003, 2004 and 2005.

MARC and its member local governments worked with Ms. Henke during the years she served on the staffs of Senators Jack Danforth and Kit Bond. We found Ms. Henke to be highly responsive to local officials, knowledgeable on federal government regulations and programs, and a skillful negotiator and problem-solver. Her experience with the Senators and at the US Department of Justice will serve her well in this important homeland security position.

Ms. Henke's nomination would be of great benefit to the federal government in its efforts to work with state and local governments. We appreciate your favorable consideration of Ms. Henke.

Sincerely,

David A. Warm
 Executive Director

cc: Senator Kit Bond
 Senator Jim Talent
 Senator Pat Roberts
 Senator Sam Brownback

Chair
 Bill L. Shaffer
 Mayor
 Prairie Village, Kan.

1st Vice Chair
 Gary Mallory
 Presiding Commissioner
 Cass County, Mo.

2nd Vice Chair
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 of Wyandotte County/
 Kansas City, Kan.

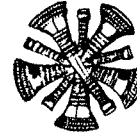
Treasurer
 Carol McCaslin
 Presiding Commissioner
 Clay County, Mo.

Secretary
 Jim Schultz
 Councilmember
 Independence, Mo.

Executive Director
 David A. Warm



Western Missouri Fire Chiefs Association



July 19, 2005

Hon. Susan Collins
United States Senate
461 Dirksen Senate Office Building
Washington, DC 20510

Re: Ms. Tracy A. Henke

Dear Senator Collins,

As you know, Ms. Tracy A. Henke has been nominated for the position of Assistant Secretary of the Office of State and Local Government Coordination and Preparedness (OSLGCP) within the Department of Homeland Security. I am writing to you to support Ms. Henke's nomination.

For the past four years I have had the opportunity to work with Ms. Henke concerning the Medal of Valor Review Board that is housed within the Justice Department. I have found Ms. Henke to be very professional, energetic and an individual who gets the job done. She is a consummate professional who will be a tremendous asset in this important position within the Department of Homeland Security.

If you should have any questions or comments, please do not hesitate to contact me.

Sincerely,

Chief Steve Holle
President, Western Missouri Fire Chiefs Association



Office of the Fire Chief

Fire Headquarters

Century Towers
635 Woodland Avenue, Suite 2100
Kansas City, Missouri 64106

(816) 784-9200
Fax: (816) 784-9230

July 19, 2005

Hon. Susan Collins
United States Senate
461 Dirksen Senate Office Building
Washington, DC 20510

Re: Ms. Tracy A. Henke

Dear Senator Collins,

As you know, Ms. Tracy A. Henke has been nominated for the position of Assistant Secretary of the Office of State and Local Government Coordination and Preparedness (OSLGCP) within the Department of Homeland Security. I am writing to you to support Ms. Henke's nomination.

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If you should have any questions or comments, please do not hesitate to contact me.

Sincerely,

Chief Richard A. Dyer
Fire Director



NDA A

Office of the Executive Director

December 16, 2005

Honorable Susan M Collins
Committee on Homeland Security and
Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510-6250

National District Attorneys Association

99 Canal Center Plaza, Suite 510, Alexandria, Virginia 22314

703.549.9222 / 703.836.3195 Fax

www.ndaa-apri.org

Honorable Joseph Lieberman
Committee on Homeland Security and
Governmental Affairs
604 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Collins and Senator Lieberman:

I would like to express my strongest support for the nomination of Tracy A. Henke as the Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security.

Ms Henke, in her current position with the Department of Justice, has worked with local prosecutors and with this Association, on a myriad of issues to ensure the safety of our citizens. She has always proven herself a tireless and dedicated professional and has proven that she truly understands the strengths of local prosecutors as the chief law enforcement officer within their respective communities.

Moreover her experiences with local law enforcement that she would bring to the Department of Homeland Security are needed now more than ever as we continue a national dialogue on appropriate responses and responsibilities to both terrorist actions and natural disasters at each level of government. Her ability to share her knowledge with others in the Department, and then mirror these as part of her outreach responsibilities, would be invaluable to bridging the actual or perceived gaps in leadership.

We look forward to continuing to work with Ms Henke in the Department of Homeland Security and urge her most speedy confirmation.

Sincerely,

Thomas J. Charron
Executive Director
National District Attorneys Association

POST



Bureau of Justice Statistics

Contacts between Police and the Public

Findings from the 2002 National Survey

In 2002 —

21% of surveyed residents had a contact with police

40% of contacts were in traffic stops

26% of contacts were to report a crime or problem

1.5% of contacts involved police use of force

9% of white drivers were stopped

9% of black drivers were stopped

9% of Hispanic drivers were stopped

84% of drivers considered stop legitimate

U.S. Department of Justice
Office of Justice Programs
810 Seventh Street, N.W.
Washington, D.C. 20531

Alberto R. Gonzales
Attorney General

Office of Justice Programs
Partnerships for Safer Communities

Tracy Henke
Acting Assistant Attorney General

World Wide Web site:
<http://www.ojp.usdoj.gov>

Bureau of Justice Statistics

Lawrence A. Greenfeld
Director

World Wide Web site:
<http://www.ojp.usdoj.gov/bjs>

For information contact
National Criminal Justice Reference Service
1-800-851-3420

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics



Contacts between Police and the Public

Findings from the 2002 National Survey

By
Matthew R. Durose
Erica L. Schmitt
Patrick A. Langan, Ph.D.

BJS Statisticians

April 2005, NCJ 207845

U.S. Department of Justice
Bureau of Justice Statistics

BJS statisticians Matthew R. Durose, Erica L. Schmitt, and Patrick A. Langan wrote this report. Tina Dorsey edited and produced the report. Staff from the U.S. Census Bureau facilitated the final construction of the questionnaire, managed the field aspect of the data collection, processed the data, and provided the estimation specifications.

Data presented in this report can be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The archive Internet site can be accessed through the BJS site.

Electronic versions of this and other reports are available from the BJS Internet site:
<http://www.ojp.usdoj.gov/bjs/>

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Foreword

This publication represents the annual report to the Congress as required by Section 210402 of the Violent Crime Control and Law Enforcement Act of 1994, which mandates the collection of data by the Attorney General on the "use of excessive force by law enforcement officers." The report's findings are based on the *Police-Public Contact Survey* (PPCS), a survey designed by the Bureau of Justice Statistics (BJS) to document contacts between police and the public that culminated in police using force.

To date, national surveys of the public concerning its contacts with police have been conducted three times by BJS:

- The first survey – described in the BJS publication *Police Use of Force: Collection of National Data* (NCJ 165040) – documented levels of contacts with police during 1996.
- The second survey – described in *Contacts between Police and the Public: Findings from the 1999 National Survey* (NCJ 184957) – recorded police-citizen contacts in 1999.
- The third survey – described here under the publication title *Contacts between Police and the Public: Findings from the 2002 National Survey* (NCJ 207845) – covered interactions between police and the public in 2002.

In addition to the three surveys, data collection activities undertaken by BJS pertaining to police use of force include the following:

- In 2000 BJS published *Traffic Stop Data Collection Policies for State Police, 1999* (NCJ 180776), which summarized results of a survey documenting, for example, the number of State police agencies in 1999 that routinely keep administrative records on police use of force in traffic stops.
- In 2001 BJS updated its information regarding the maintenance of administrative records on police use of force with results summarized in *Traffic Stop Data Collection Policies for State Police, 2001* (NCJ 191158).
- In 2001 BJS published *Policing and Homicide, 1976-98: Justifiable Homicide by Police, Police Officers Murdered by Felons* (NCJ 180987), which summarizes and analyzes historical data on the number of persons killed by police in the line of duty.

- In 2003 BJS fielded a revised version of the national survey titled *Sample Survey of Law Enforcement Agencies*, which included for the first time a battery of questions to State and local police agencies about the annual number of complaints they receive regarding excessive force by police (and the disposition of those complaints). Survey results are expected in 2005 under the publication title *Citizen Complaints about Police Use of Force, 2002*. This survey will be repeated in 2006 and every 3 years thereafter.

- In 2004 BJS expanded its annual Web publication *Homicide Trends in the United States* to include the latest national statistics on justifiable homicides by police.

- In 2005 BJS published *State and Local Law Enforcement Training Academies, 2002* (NCJ 204030), summarizing results from the first survey of training academies ever conducted by BJS. Among other things the publication includes considerable information about the types of training police recruits receive on the use of force.

Over the years, BJS has vastly expanded its production of statistical data on police use of force. BJS will continue to look for new and creative ways to meet the information needs of the public, policymakers, and criminal justice practitioners concerning this most vital topic.

Lawrence A. Greenfeld
Director
Bureau of Justice Statistics

Highlights

Incidence and prevalence of contact with police

- In 2002 an estimated 45.3 million U.S. residents age 16 or older — about 21% of all persons of this age — had at least one face-to-face contact with a police officer. This is the same rate of contact between police and residents found in the 1999 Police-Public Contact Survey (PPCS).

- On a per capita basis in 2002, the rate of police-resident contact for whites was about 15% higher than for blacks and about 26% higher than for Hispanics. The rate of contact for males was about 20% higher than for females.

- In 2002 a total of about 76 million encounters, or about 1.7 contacts per person, occurred between the police and the 45.3 million persons with at least one contact that year.

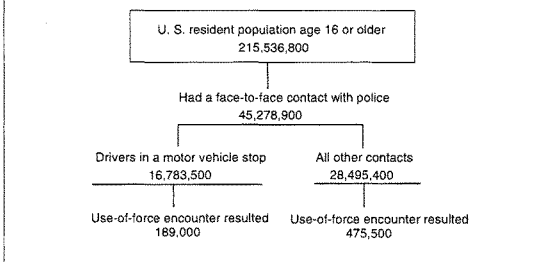
- Seventy-one percent of persons experiencing a contact with police during 2002 had no more than one contact. The remaining 29% of those with contacts reported having multiple contacts.

Reasons for contact with police

- Among the 45.3 million persons who had at least one police contact during 2002, 58.5% reported their latest (that is, most recent) contact that year was initiated by police. The remaining 41.5% of contacts between the public and the police were initiated by the resident or someone other than the police (such as a family member or acquaintance of the resident).

- In 2002 the most common reason for police contact was being the driver of a motor vehicle that was pulled over by police, accounting for almost 17 million contacts.

Among the 45.3 million residents age 16 or older who had a contact with police in 2002, about 1.5% (664,500 persons) had a contact in which police used or threatened force against them.



- About 25% of the 45.3 million persons with a face-to-face contact indicated the reason for the contact was to report a crime or other problem.

Contacts culminating in arrest

- In 2002 about 1.3 million residents age 16 or older — 2.9% of the 45.3 million persons with contact — were arrested by police. Similarly, just over 1.3 million residents were handcuffed during their contact with police.

Resident opinion on whether police acted properly

- In 2002 the vast majority of the 45.3 million persons who had a contact with police felt the officer(s) acted properly (90.1%).

Contacts with police in traffic stops

- In 2002 approximately 192.7 million persons age 16 or older said they drive a few times a year or more. Of these 192.7 million drivers, an estimated 8.7% were pulled over by police in a traffic stop. The 8.7% represents 16.8 million stopped drivers.

- Of the 16.8 million stopped drivers, an estimated 60.8% (10.2 million) were

male and 39.2% (6.6 million) were female; 76.5% (12.8 million) were white, 11% (1.9 million) were black, 9.5% (1.6 million) were Hispanic, and 2.9% (.5 million) were drivers of other races.

- The likelihood of being stopped by police in 2002 did not differ significantly between white (8.7%), black (9.1%), and Hispanic (8.6%) drivers.

- An estimated 9.3% of drivers stopped by police said the reason for the stop was a burned out headlight, a loud muffler, or some other vehicle defect; 11.5% said the reason was a check for vehicle registration, insurance coverage, driver's license, or some other record; 1.3% said a roadside check for drunk drivers; 7.1% said a stopsign or stoplight violation; 4.4% said a seatbelt violation; 4.9% said they made an illegal turn or an illegal lane change; 54.8% said speeding; and 4.2% said they were stopped for some other traffic offense.

- Of the 16.8 million stopped drivers, police issued a ticket to 58.6%, carried out a search of some kind (a physical search of the driver and/or a search of the vehicle) on 5%, handcuffed 2.8%, arrested 2.7%, used or threatened force against 1.1%, and used or threatened

force that the driver deemed excessive against 1%.

- During the traffic stop, police were more likely to carry out some type of search on a male (7.1%) than a female (1.8%), and more likely to carry out some type of search on a black (10.2%) or Hispanic (11.4%) than a white (3.5%).

- The vast majority of drivers stopped by police (84%) said they had been stopped for a legitimate reason, and 88% of stopped motorists felt police had behaved properly during the traffic stop.

Contacts with police involving force or the threat of force

- Among the 45.3 million residents age 16 or older who had a contact with police in 2002, about 1.5% (664,500 persons) had a contact in which police used or threatened force against them. The 1.5% in 2002 is greater than the percentage in 1999. In 1999, 1% (0.98%) of persons with contact experienced force or the threat of force.

- Among those with police contact, blacks (3.5%) and Hispanics (2.5%) were more likely than whites (1.1%) to experience police threat or use of force during the contact.

- Force was used against 2.5% of 16-to-29 year olds who came into contact with police. The percentage was lower — 0.9% — for persons over age 29.

- "Pushed" or "grabbed" by police was the type of force that characterized 42% of the 664,500 contacts in which force occurred. An additional 19% of the 664,500 force incidents involved police pointing a gun at the resident.

- Of the 664,500 persons against whom force was used, about three-quarters characterized the force as excessive.

- About 14% of the 664,500 persons who experienced force were injured as a result of the police action.

- About 24% of the 664,500 persons involved in a police force incident argued with, cursed at, insulted, or verbally threatened the officer(s) during the incident.

- An estimated 38% of the 664,500 persons involved in a force contact were arrested during the incident.

- About 87% of the 664,500 persons experiencing the threat or use of force felt the police acted improperly. Less than 20% of these persons took formal action, such as filing a complaint or lawsuit with authorities.

Force in the PPCS

Force includes contacts in which the police officer pushed, grabbed, kicked, or hit the resident. Hitting was defined as striking with a hand or an object held in the officer's hand. Included in the definition of force were police dog bites, spray with pepper spray or a chemical, and a firearm pointed in the resident's direction. Also included was the threat to carry out any of these types of force.

The survey provided an opportunity for respondents to express their opinion as to whether any police force or threat of force used against them was "excessive." The survey did not define "excessive" for the respondent. Respondents who said they had experienced police use or threat of force were asked whether they felt any of the physical force used or threatened against them was excessive. If a respondent said the force was excessive, he or she was asked about the specific type of physical force considered excessive.

Incidence and prevalence of police-public contact

In 2002 an estimated 45.3 million residents — about 21% of the 216 million U.S. residents age 16 or older — had at least one face-to-face contact with a law enforcement officer (table 1). In 2002 rates of contact between residents and the police translate into about 1 person with a contact for every 4.8 residents age 16 or older. These findings come from the 2002 Police-Public Contact Survey (PPCS) which was conducted during the last 6 months of that year.

Characteristics of residents having face-to-face contact with police

Gender

Males had a per capita rate of contact about 20% higher than females. About 1 out of every 4.3 males age 16 or older had a contact with a police officer in 2002. Among female residents age 16 or older, there was about 1 with a contact for every 5.2 females.

Race/Hispanic origin

Per capita rates of contact between residents and the police vary by the race and Hispanic origin of the residents. Whites experienced contact with law enforcement officers at the highest rate: about 1 person for every 4.5 non-Hispanic white residents age 16 or older experienced a contact. By contrast, about 1 person for every 5.2 black residents had contact, and at a lower rate, about 1 Hispanic for every 5.7 persons of Hispanic origin had a direct contact with a law enforcement officer. Per capita, the white rate of police-resident contact was about 15% higher than that for blacks and about 26% higher than that for Hispanics. Other races (primarily Asians, Pacific Islanders, American Indians, and Alaska Natives) experienced contact with police at lower rates than whites

Table 1. Rate of face-to-face contact between police and persons age 16 or older, by demographic characteristics of residents, 2002

Demographic characteristic	Persons age 16 or older			Rate of contact per 1,000 persons
	Contact with police	No contact with police	Total U.S. population	
Total	45,278,884	170,257,897	215,536,780	210
Gender				
Male	23,884,649	80,104,070	103,988,719	230
Female	21,394,234	90,153,827	111,548,061	192
Race/Hispanic origin				
White	34,743,452	122,630,261	157,373,713	221
Black	4,966,388	20,727,682	25,694,070	193
Hispanic	4,191,712	19,763,470	23,955,182	175
Other race	1,377,332	7,136,483	8,513,815	162
Age				
16-17	1,720,202	6,538,046	8,258,248	208
18-19	2,594,029	5,409,595	8,003,624	324
20-24	6,074,822	13,310,410	19,385,232	313
25-29	4,842,871	12,902,332	17,745,203	273
30-34	4,573,911	14,990,944	19,564,855	234
35-39	5,171,387	15,936,835	21,108,222	245
40-44	5,024,133	18,024,443	23,048,576	218
45-49	4,470,583	16,640,416	21,110,999	212
50 or older	10,806,946	66,504,876	77,311,822	140
Size of jurisdiction where resided				
Under 100,000	34,580,825	128,879,160	163,459,985	212
100,000-499,999	6,763,356	23,105,379	29,868,735	226
500,000-999,999	1,818,598	6,150,199	7,968,797	228
1 million or more	2,116,106	12,123,158	14,239,264	149

Note: Detail may not add to total because of rounding.

and blacks; on average, there was about 1 person with a contact for every 6.2 residents of other races.

Age

Residents in the youngest age groups generally had higher rates of contact with police than those in the oldest age groups. Residents in the age groups of 18 to 19 and 20 to 24 had the highest rates of contact with police (about 1 for every 3.1 persons and about 1 for every 3.2 persons, respectively). By contrast, among those 50 or older, rates of contact equal about 1 person with a contact for every 7.1 persons of this age.

Size of jurisdiction

Residents of jurisdictions with fewer than 100,000 residents had a rate of

contact with police which was 42% higher than those residing in jurisdictions of 1 million or more residents (212 versus 149 per 1,000 residents).

Number of contacts residents had with police

In 2002 a total of 75.7 million encounters occurred between the police and the 45.3 million persons with at least one contact that year (table 2).

Of the 45.3 million persons with police contact during 2002:

- 71% had one contact
- 29% had 2 or more contacts
- the average number of face-to-face contacts was 1.7.

Resident gender

In 2002 males were 48% of the U.S. population age 16 or older but 53% of the persons experiencing a face-to-face contact with police and 55% of those with two or more contacts that year (table 3).

Resident race/Hispanic origin

Whites made up 73% of the U.S. population age 16 or older but 77% of persons with a police contact in 2002. Black residents age 16 or older made up about the same percentage of persons having police contact (11%) as their percentage of the U.S. population (12%).

Resident age

Residents in their twenties had relatively high rates of contact with police. In 2002 persons age 20 to 29 were 24.1% of persons with police contact but 17.2% of the U.S. population age 16 or older. The mean age of persons age 16 or older with at least one face-to-face police contact during 2002 was 39; the median was 37 (not shown in table).

Resident's description of contact with police during 2002

Survey respondents who said they had face-to-face contact with police during 2002 were asked to describe the nature of the contact. If persons had more than one contact, they were asked only about their latest (that is, most recent) contact that year.

Table 2. Annual number of face-to-face contacts between police and persons age 16 or older, by demographic characteristics of residents, 2002

Demographic characteristic	Total number of police contacts in 2002 (in millions)	Percent of persons 16 or older with police contact					Average number of contacts per person
		1 time	2 times	3 times	4 times	5 times or more	
Total	75.7	71.3%	16.2%	6.3%	2.4%	3.8%	1.67
Gender							
Male	40.4	70.3%	16.0%	6.7%	2.9%	4.1%	1.69
Female	35.3	72.3	16.5	5.8	1.9	3.5	1.65
Race/Hispanic origin							
White	58.3	71.3%	16.1%	6.4%	2.3%	3.8%	1.68
Black	8.5	71.4	16.1	6.3	2.2	4.0	1.71
Hispanic	6.8	70.6	17.0	5.8	3.5	3.1	1.61
Other race	2.2	71.8	16.0	5.3	2.2	4.6	1.59
Age							
16-29	27.8	65.9%	17.8%	7.7%	3.2%	5.3%	1.83
30-59	41.1	72.4	16.2	6.0	2.2	3.2	1.63
60 or older	6.8	82.2	11.2	3.4	1.1	2.1	1.42

Note: Detail may not add to total because of rounding.

Table 3. Characteristics of persons with and without face-to-face police contact, 2002

Demographic characteristic	Total U.S. population	Percent of persons age 16 or older			Without police contact
		With police contact			
		Total	One contact	Two or more contacts	
Total	100%	100%	100%	100%	100%
Gender					
Male	48.2%	52.8%	52.1%	54.5%	47.0%
Female	51.8	47.2	47.9	45.5	53.0
Race/Hispanic origin					
White	73.0%	76.7%	76.8%	76.6%	72.0%
Black	11.9	11.0	11.0	10.9	12.2
Hispanic	11.1	9.3	9.2	9.5	11.6
Other race	4.0	3.0	3.1	3.0	4.2
Age					
16-17	3.8%	3.8%	3.6%	4.4%	3.8%
18-19	3.7	5.7	4.9	7.8	3.2
20-24	9.0	13.4	12.2	16.5	7.8
25-29	8.2	10.7	10.5	11.2	7.6
30-34	9.1	10.1	10.2	9.8	8.8
35-39	9.8	11.4	11.3	11.6	9.4
40-49	20.5	21.0	21.2	20.4	20.4
50 or older	35.9	23.9	26.1	18.2	39.1

Note: Detail may not add to total because of rounding.

Reason for contact

Among the 45.3 million persons who had at least one police contact during 2002, 58.5% reported their most recent contact that year was initiated by police (table 4). The remaining 41.5% of contacts between the public and the police were initiated by the resident or someone other than the police (such as a family member or acquaintance of the resident).

In 2002 the most common reason for police contact was driving a motor vehicle that was pulled over by police, accounting for almost 17 million contacts. Another 1.2 million persons had police contact as a passenger in a stopped vehicle.

The second most frequent reason for face-to-face contact with police was to report a crime or problem. Among the 45.3 million persons with police contact, about 1 in 4 contacted police because of a crime or other problem.

Handcuffing or arresting the resident

When an arrest occurs, the police do not always handcuff the suspect, and not all persons who are handcuffed are subsequently arrested. Handcuffs can be used to detain someone for a short time while police determine how to handle the situation. In 2002 about 1.3 million residents age 16 or older — 2.9% of the 45.3 million persons with contact — were arrested by police (table 5). Similarly, just over 1.3 million residents were handcuffed during their contact with police.

During the 26.5 million contacts initiated by police, 4.3% of residents were placed under arrest. Less than 1% (0.8%) of residents were arrested during the 18.8 million contacts that were not police-initiated.

Table 4. Number of residents age 16 or older with police contact, by type of and reason for contact, 2002

	Contact with police	
	Number	Percent
Total	45,278,884	100%
Type of contact		
Police-initiated	26,483,794	58.5%
Not police-initiated*	18,795,090	41.5
Reason for contact		
Traffic accident	5,891,645	13.0%
Driver during traffic stop	16,783,467	37.1
Passenger during traffic stop	1,218,470	2.7
Reported crime or problem to police	11,959,548	26.4
Police provided assistance or service	3,264,503	7.2
Police were investigating crime	2,615,255	5.8
Suspected of something by police	1,158,167	2.6
Other reason	2,387,828	5.3

Note: Detail may not add to total because of rounding.

*Includes contact initiated by the resident or someone other than the police, such as a family member or acquaintance of the resident.

Table 5. What police did during the contact, by type of and reason for contact, 2002

	Characteristics of police contact		
	Handcuffed the resident	Arrested the resident	Resident felt officer(s) acted properly
Total	2.9%	2.9%	90.1%
Type of contact			
Police-initiated	4.3%	4.3%	87.6%
Not police-initiated*	0.9	0.8	93.6
Reason for contact			
Traffic accident	2.0%	2.0%	93.1%
Driver during traffic stop	2.8	2.7	89.3
Passenger during traffic stop	5.8	5.5	80.6
Reported crime or problem to police	0.6	0.6	93.0
Police provided assistance or service	0.6	0.3	96.1
Police were investigating crime	8.3	8.2	86.7
Suspected of something by police	21.3	22.1	68.9
Other reason	4.2	5.1	83.6
Estimated number	1,301,987	1,302,417	40,790,830

*Includes contact initiated by the resident or someone other than the police, such as a family member or acquaintance of the resident.

About 1 in 5 persons suspected of criminal wrongdoing were either handcuffed (21.3%) or arrested (22.1%) by police. Persons who contacted police to report a crime or other problem experienced handcuffing or an arrest less than 1% of the time.

Resident opinion on whether police acted properly

In 2002 the vast majority of residents with police contact felt the officer(s) acted properly (90.1%). Persons whose contact was not initiated by police (93.6%) were more likely than those whose contact was police-initiated (87.6%) to feel the officer(s) acted properly during the encounter.

Traffic stops

Number of drivers pulled over by police in 2002

The number of drivers age 16 or older pulled over by police in a traffic stop in 2002 totaled 16.8 million persons (table 6). The 16.8 million includes stops of all kinds of motor vehicles — for example, motorcycles, buses, and private and commercial cars and trucks — and both personal and business travel.

Driver gender

Of the 16.8 million drivers stopped during the year, approximately 10.2 million, or 61%, were male, and 6.6 million, or 39%, were female.

Driver race/Hispanic origin

Of the 16.8 million stopped drivers, 12.8 million, or 77%, were white; 1.9 million, or 11%, were black; and 1.6 million, or 10%, were Hispanic.

Driver age

Most stopped drivers were adults under age 40. Ten percent were under age 20, and 50% were between 20 and 39 years of age. Stopped drivers between ages 40 and 49 accounted for 19%, and those age 50 or older, 21%.

Likelihood of driver being stopped

The 2002 U.S. population age 16 or older totaled 215.5 million persons (table 7). An estimated 89%, or 192.7 million, indicated they drive a few times a year or more. On at least one occasion in 2002, 16.8 million of these drivers were driving a car or other motor vehicle when it was pulled over by police in a traffic stop. The 16.8 million stopped drivers represent 8.7% — nearly 1 out of 11 — of the Nation's 192.7 million drivers. In other words, an estimated 8.7% of all U.S. drivers age 16 or older who say they drive a few times a year or more were pulled over by police in 2002.

Driver gender

Ninety-three percent of males and 86% of females age 16 or older said they drive a motor vehicle at least a few times a year. Male drivers (10.6%) were more likely than female drivers (6.8%) to be stopped by police in 2002.

Driver race/Hispanic origin

Among persons ages 16 or older in 2002, 93% of whites, 79% of blacks, and 78% of Hispanics indicated that they drive a motor vehicle at least a few times a year.

The likelihood of being stopped by police in 2002 did not differ significantly among white (8.7%), black (9.1%), and Hispanic (8.6%) drivers.

Table 6. Gender, race/Hispanic origin, and age of drivers stopped by police, 2002

Demographic characteristic	Drivers age 16 or older stopped by police in 2002	
	Number	Percent
Total	16,783,467	100.0%
Gender		
Male	10,210,452	60.8%
Female	6,573,015	39.2
Race/Hispanic origin		
White	12,842,254	76.5%
Black	1,852,086	11.0
Hispanic	1,595,872	9.5
Other race	493,256	2.9
Age		
16-19	1,653,563	9.9%
20-29	4,707,381	28.0
30-39	3,741,421	22.3
40-49	3,235,073	19.3
50-59	2,074,389	12.4
60 or older	1,371,640	8.2

Note: Detail may not add to total because of rounding.

Table 7. Gender, race/Hispanic origin, and age of all drivers compared to drivers stopped by police, 2002

Demographic characteristic	U.S. population age 16 or older	Population who drive a few times a year or more		Drivers stopped by police in 2002	
		Number	Percent	Number	Percent
Total	215,536,780	192,687,190	89.4%	16,783,467	8.7%
Gender					
Male	103,988,719	96,291,891	92.6%	10,210,452	10.6%
Female	111,548,061	96,387,512	86.4	6,573,015	6.8
Race/Hispanic origin					
White	157,373,713	146,779,643	93.3%	12,842,254	8.7%
Black	25,694,070	20,260,621	78.9	1,852,086	9.1
Hispanic	23,855,183	18,619,405	77.7	1,595,872	8.6
Other race	8,513,815	7,000,729	82.2	493,256	7.0
Age					
16-19	16,261,872	12,125,184	74.6%	1,653,563	13.6%
20-29	37,130,435	33,569,980	90.4	4,707,381	14.0
30-39	40,673,077	38,194,094	93.9	3,741,421	9.8
40-49	44,159,575	41,588,867	94.2	3,235,073	7.8
50-59	32,907,951	30,628,017	93.1	2,074,389	6.8
60 or older	44,403,872	36,552,985	82.3	1,371,640	3.8

Note: Detail may not add to total because of rounding.

Whites were 76.2% of vehicle drivers and 76.5% of those pulled over; blacks were 10.5% of drivers and 11% of drivers stopped; and Hispanics were 9.7% of drivers and 9.5% of drivers stopped by police.

In short, survey results indicated that in 2002, white, black, and Hispanic drivers had an equal chance of being pulled over by police in a motor vehicle stop.

Driver age

In 2002, 75% of all persons age 16 to 19 indicated they were drivers of a motor vehicle. Among persons in their twenties, thirties, forties, or fifties, 90% or more said they drove. Of those age 60 or older, 82% operated a vehicle.

Generally, the younger the driver, the greater the likelihood that he or she was pulled over by police in 2002. The one exception was for teenage drivers and drivers in their twenties, who did not differ in their likelihood of being stopped by police — 13.6% of drivers age 16 to 19 and 14% of drivers age 20 to 29. For those over age 30, the probability of being stopped by police in 2002 decreased with age: 9.8% of those in their thirties were pulled over by police, 7.8% of those in their forties, 6.8% of those in their fifties, and 3.8% of drivers age 60 or older.

Reason for being stopped

Surveyed drivers were asked what reason the officer gave for the stop:

- Most (54.8%) said "speeding" (table 8).
- 9.3% said a "vehicle defect" (burned out taillight, loud muffler, and so forth).
- 1.3% said a "roadside check for drunk drivers." (Police may not stop motorists randomly at roadblocks to search for drugs but may stop motorists randomly to search for drunken drivers.)
- 11.5% said a "record check" of some sort (for example, a check for driver's license or insurance coverage or vehicle registration).
- 4.4% said they were stopped for a "seatbelt violation" (for example, a passenger in the vehicle was not wearing a seatbelt, or a small child was not secured in a child safety seat).
- 4.9% said "illegal turn/lane change" (for example, the driver did not use his/her signal properly, or turned the wrong way down a one-way street).
- 7.1% said a stopsign or stoplight violation.
- 4.2% said "some other traffic offense" (following too closely, reckless driving, lights not on, loud music, curfew violation, throwing a cigarette out a window, and so forth).
- A small percentage of stopped drivers (2.1%) said police had not given a reason for the stop.

Driver gender

Females were more likely than males to say the reason for the stop was "speeding" (females 57.9%, males 52.8%). Males were more likely than females to indicate "vehicle defect" (males 10.6%, females 7.4%) and somewhat more likely to say "seatbelt violation" (males 4.8%, females 3.7%). Otherwise, there were no significant differences between the genders. For example, males (1.4%) and females (1.1%) were not significantly different in giving "roadside check for drunk drivers" as the reason.

Driver race/Hispanic origin

Whites were more likely than blacks and Hispanics to say the reason for the stop was "speeding" (whites 57%, blacks 50%, and Hispanics 44.4%). Hispanics were more likely than whites and somewhat more likely than blacks to say they were stopped for a "vehicle defect" (Hispanics 14%, whites 8.7%, and blacks 10.3%). Blacks (17.4%) were more likely than whites (11.3%) or Hispanics (7.8%) to say the reason they were stopped was for a record check.

Driver age

Speeding — The most consistent finding was that drivers in the youngest age category (age 16 to 19) were more likely (59.6%) than drivers in their forties (53.4%), fifties (49.1%), and sixties or older (51.4%) to give "speeding" as the reason for being stopped.

Vehicle defect — Drivers in their teens (14.1%) and twenties (11.9%) were more likely than drivers in each of the older age categories to say the reason they were stopped was a "vehicle defect."

Record check — The most consistent finding was that teenage drivers (5.2%) and drivers in their twenties (8.8%) were less likely than drivers in each of the older age categories to say they were stopped for a "record check."

Driver opinion on being stopped

The vast majority of drivers pulled over by police (84%) felt they had been stopped for a legitimate reason. That opinion was not uniform across the different segments of the population.

Driver gender

Females (86%) were more likely than males (82%) to say that the stop was for a legitimate reason.

Driver race/Hispanic origin

The vast majority of blacks stopped by police (73%) felt they had been stopped for a legitimate reason. Nevertheless, blacks were less likely than whites (86%) and somewhat less likely than Hispanics (82%) to say the police had a legitimate reason for stopping them.

Driver age

There were no significant differences between drivers of one age and drivers of another age in terms of their opinion about whether they had been stopped for a legitimate reason.

Percent of stopped drivers who felt that they had been stopped for a legitimate reason

Total	84%
Gender	
Male	82%
Female	86
Race/Hispanic origin	
White	86%
Black	73
Hispanic	82
Other race	83
Age	
16-19	84%
20-29	83
30-39	85
40-49	84
50-59	85
60 or older	83

Table 8. Reasons police gave for stopping vehicle, by gender, race/Hispanic origin, and age of stopped drivers, 2002

Characteristic of stopped driver	Reason police gave for traffic stop									
	Total	Speeding	Vehicle defect	Roadside check for drunk drivers	Record check	Seatbelt violation	Illegal turn/lane change	Stop sign/light violation	Other traffic offense	Other
Total	100%	54.8%	9.3%	1.3%	11.5%	4.4%	4.9%	7.1%	4.2%	2.5%
Gender										
Male	100%	52.8%	10.6%	1.4%	11.5%	4.8%	4.9%	6.7%	4.4%	2.9%
Female	100	57.9	7.4	1.1	11.5	3.7	4.9	7.6	3.9	1.9
Race/Hispanic origin										
White	100%	57.0%	8.7%	1.3%	11.3%	4.4%	4.5%	6.5%	4.0%	2.3%
Black	100	50.0	10.3	1.1*	17.4	3.5	5.1	5.9	3.7	2.9
Hispanic	100	44.4	14.0	1.6*	7.8	5.5	5.7	11.2	6.2	3.5
Other race	100	50.0	6.9	0	7.7	4.2*	11.9	12.9	4.4*	1.8*
Age										
16-19	100%	59.6%	14.1%	1.1%*	5.2%	2.4%*	2.6%	5.6%	6.5%	2.9%
20-29	100	56.1	11.9	1.1	8.8	4.0	5.3	7.3	3.3	2.3
30-39	100	56.7	7.3	1.3	12.8	4.8	4.4	5.8	4.4	2.6
40-49	100	53.4	7.8	1.5	12.2	4.3	5.4	8.8	4.1	2.5
50-59	100	49.1	8.2	1.6	16.0	5.2	5.2	7.3	4.5	2.8
60 or older	100	51.4	6.0	1.2*	16.2	6.1	5.8	7.2	3.9	2.1
Estimated number	16,783,467	9,199,342	1,567,312	215,326	1,930,284	740,136	817,543	1,186,578	708,918	418,028

Note: Detail may not add to total because of rounding. Table excludes 2.1% of stopped drivers who said the police had not given a reason for the stop.

*Estimate is based on 10 or fewer sample cases.

Warnings and tickets issued during traffic stops

Police issued a traffic ticket to 58.6% of the drivers they stopped (table 9). Another 25.3% received some type of warning, either written or verbal. The remaining 16.1% did not receive a ticket or warning.

Driver gender

Females (26.9%) were more likely than males (24.2%) to receive a warning from police after being pulled over. Males (59.8%) were more likely than females to be ticketed (56.8%).

Driver race/Hispanic origin

Compared to black drivers (18.3%), Hispanic drivers (18.2%), and drivers of other races (20.3%), white drivers (27.4%) were more likely to be issued a warning during a traffic stop.

Blacks (58.4%) were not significantly more likely than whites (56.5%) to be ticketed during a traffic stop. Hispanics (71.5%) were more likely than both whites (56.5%) and blacks (58.4%) to be issued a ticket.

Hispanics were 9.5% of stopped drivers but 11.6% of those given a ticket. Comparatively, whites were 76.5% of stopped drivers and 73.8% of those ticketed, and blacks were 11% of drivers stopped by police and 11% of ticketed drivers.

Driver age

Generally, the older the driver, the lower the likelihood of receiving a ticket during a traffic stop. For example, teenage drivers (58.6%), and drivers in their twenties (64.3%), thirties (61.3%), or forties (58.5%) were each more likely than either drivers in their fifties (50.2%) or drivers age 60 or older (44.9%) to be ticketed.

Time of day of traffic stop

All other things being equal, if police practice racial profiling of black drivers, blacks as a percentage of all daytime traffic stops should be greater than blacks as a percentage of all nighttime stops. Why? Because police can identify the race of drivers more easily during the day than at night.

To investigate the issue, daytime traffic stops were compared to nighttime stops. Of the 10.1 million white and black drivers stopped during the day

in 2002, about 1.1 million — 11% — were black.

Of the 4.6 million white and black drivers stopped at night, approximately 700,000 — 15% — were black. These results indicate that blacks were a smaller — not greater — percentage of daytime (11%) than nighttime (15%) traffic stops, providing no specific evidence of differential stops based on the visibility of the driver's race.

Race of stopped driver	Drivers stopped —			
	During the day		At night	
	Number	Percent	Number	Percent
Total	10,100,000	100%	4,600,000	100%
White	9,000,000	89%	3,900,000	85%
Black	1,100,000	11	700,000	15

Arresting the driver

Among drivers stopped by police, 2.7% were arrested (table 9). Arrests occurred for a variety of reasons, such as —

- Failing a sobriety test
- Having drugs or an illegal weapon on the driver or in the vehicle
- Having an outstanding warrant for arrest
- Assaulting the police officer.

Driver gender

Stopped males (3.7%) were more likely than stopped females (1.1%) to be arrested.

Driver race/Hispanic origin

Blacks (5.8%) and Hispanics (5.2%) stopped by police were more likely than whites (2%) to be arrested.

Blacks were 11% of drivers stopped by police but 23.8% of drivers who were arrested, and Hispanics were 9.5% of stopped drivers but 18.4% of those arrested. Whites were 76.5% of stopped motorists and 58% of drivers arrested.

Driver age

Drivers in their twenties (3.7%) or thirties (2.9%) were more likely than drivers in their fifties (1.5%) to be arrested by police during a traffic stop. No other significant differences in the likelihood of arrest were found between drivers of different age groups.

Handcuffing the driver	Driver age	Driver race/Hispanic origin
Police handcuffed 2.8% of the drivers they stopped.	Drivers in their twenties (3.9%) were more likely than drivers in their forties (2.3%) or fifties (1.8%) to be handcuffed during a traffic stop.	During a traffic stop in 2002, police were more likely to use force against a black (2.7%) or Hispanic (2.4%) driver than a white (0.8%) driver.
<i>Driver gender</i>		
Males (3.8%) were more likely than females (1.1%) to be handcuffed during a traffic stop.	Police use of force against driver	<i>Driver age</i>
<i>Driver race/Hispanic origin</i>	Based on survey results, 16.8 million drivers were stopped by police at least once in 2002. Surveyed drivers were asked whether, in their opinion, police had used or threatened to use "force" against them at any time during the traffic stop. Approximately 1.1% — about 189,000 of the 16.8 million stopped by police — indicated police had used or threatened to use force against them.	The younger the driver, the greater the likelihood that police used force. That is, where significant differences existed between younger and older drivers, they were generally in the direction of a greater likelihood of younger drivers experiencing police use of force. For example, drivers in their teens (2.9%) were somewhat more likely than drivers in their thirties (1.2%) and significantly more likely than drivers in their forties (0.8%) or fifties (0.5%) to experience force.
Blacks (6.4%) and Hispanics (5.6%) stopped by police were more likely than whites (2%) to be handcuffed.	<i>Driver gender</i>	
Blacks were 11% of drivers stopped by police but 25.7% of drivers who were handcuffed, and Hispanics were 9.5% of stopped drivers but 19.4% of those handcuffed. Whites were 76.5% of stopped drivers and 55.1% of drivers were handcuffed.	Males (1.6%) were more likely than females (0.4%) to say police used or threatened force against them during a traffic stop.	

Table 9. What police did during the traffic stop, by gender, race/Hispanic origin, and age of stopped drivers, 2002

Characteristic of stopped drivers	What police did during traffic stop								
	Issued a warning	Ticketed the driver	Searched —			Handcuffed the driver	Arrested the driver	Used force against the driver ^a	Used excessive force against the driver ^a
			Driver or vehicle	Driver	Vehicle				
Total	25.3%	58.6%	5.0%	3.8%	4.0%	2.8%	2.7%	1.1%	1.0%
Gender									
Male	24.2%	59.8%	7.1%	5.4%	5.6%	3.8%	3.7%	1.6%	1.4%
Female	26.9	56.8	1.8	0.9	1.6	1.1	1.1	0.4*	0.3*
Race/Hispanic origin									
White	27.4%	56.5%	3.5%	2.5%	2.9%	2.0%	2.0%	0.8%	0.7%
Black	18.3	58.4	10.2	8.1	7.1	6.4	5.8	2.7	2.5
Hispanic	18.2	71.5	11.4	8.3	10.1	5.6	5.2	2.4	2.0*
Other race	20.3	73.1	2.9*	1.3*	2.3*	0*	0*	1.1*	0.5*
Age									
16-19	31.0%	58.5%	8.9%	6.1%	8.2%	3.0%	2.9%	2.9%	2.9%
20-29	24.8	64.3	6.6	5.4	5.0	3.9	3.7	1.3	1.1
30-39	23.8	61.3	6.4	4.5	5.0	3.1	2.9	1.2	1.0
40-49	23.3	58.5	3.4	1.9	2.8	2.3	2.5	0.8*	0.6*
50-59	26.5	50.2	1.5	1.2*	1.1*	1.8	1.5	0.5*	0.4*
60 or older	26.7	44.9	0*	0*	0*	0*	0.5*	0*	0*
Estimated number	4,241,229	9,843,043	837,809	609,278	671,957	461,582	448,094	188,882	164,255

*Estimate is based on 10 or fewer sample cases.

^aForce includes threat of force.

Police use of excessive force against driver

Of the estimated 189,000 drivers who had force used against them by police during a traffic stop, about 164,000 felt the force was "excessive" (table 9). The 164,000 represent about 87% of the 189,000 drivers who experienced police use of force and about 1% of the 16.8 million drivers stopped by police.

Driver gender

Males (1.4%) were more likely than females (0.3%) to say police had used excessive force during a traffic stop.

Driver race/Hispanic origin

Black drivers (2.5%) stopped by police were significantly more likely than stopped white drivers (0.7%) to say that police used excessive force against them.

Stopped Hispanics (2%) were somewhat more likely than stopped whites (0.7%) to feel that excessive force had been used.

Driver age

The younger the driver, the greater the likelihood the driver would indicate that police used excessive force against them. That is, where significant differences existed between younger and older drivers, they were always in the direction of a greater likelihood of younger drivers saying that excessive force had been used. For example, stopped drivers in their teens (2.9%) were somewhat more likely than drivers in their twenties (1.1%) or thirties (1%) to say excessive force was used during a traffic stop. Similarly, drivers in their teens (2.9%) were more likely than drivers in their forties (0.6%) or fifties (0.4%) to report excessive force during a motor vehicle stop.

Race of officers in traffic stops

The 2002 PPCS uncovered evidence of black drivers' having worse experiences — more likely to be arrested, more likely to be searched, more likely to have force used against them — during traffic stops than white drivers. Were these worse experiences occurring regardless of the race of the officer who made the traffic stop? To answer this question, black and white drivers stopped by white officers should be compared, and black and white drivers stopped by black officers should be compared.

Results from the 1999 PPCS suggested that the various racial dispari-

ties in traffic stop outcomes had no measurable relationship to the race of the officer who made the stop. In 1999 black drivers stopped by police generally had a worse outcome than white drivers, whether they were stopped by a white or a black officer.

However, in the 2002 PPCS, the sample size of drivers stopped by black officers was too small for reliable analyses. Because of the small sample size, this report is not able to estimate whether the race of the officer who made the traffic stop was related to what occurred during the stop among drivers stopped in 2002.

Driver opinion on whether police acted properly

An estimated 88% of the 16.8 million drivers stopped by police felt police had behaved properly during the stop.

were less likely than females (90%) to say "properly."

Driver gender

Opinion was divided between the males and females stopped by police. When asked if police had behaved properly or improperly, males (87%)

Driver race/Hispanic origin

Of the nearly 12.8 million white drivers stopped by police, 90% felt police had behaved properly during the traffic stop. That compares to 78% of the 1.9 million black drivers and 85% of the 1.6 million Hispanic drivers stopped. Though vast majorities of blacks and Hispanics felt police had behaved properly, black and Hispanic drivers were less likely than white drivers to hold that opinion.

Driver age

While the percentage of drivers age 60 or older (93%) did not differ statistically from that of drivers in their fifties (90%), in believing that the police had acted appropriately, the older drivers were more likely than drivers in their teens (87%), twenties (86%), thirties (89%), or forties (88%) to feel police had behaved properly.

	Percent of stopped drivers who felt that the police had behaved properly during the traffic stop
Total	88%
Gender	
Male	87%
Female	90%
Race/Hispanic origin	
White	90%
Black	78%
Hispanic	85%
Other	87%
Age	
16-19	87%
20-29	86%
30-39	89%
40-49	88%
50-59	90%
60 or older	93%

Searching the driver, vehicle, or both

During a traffic stop police sometimes conduct a search for drugs, open containers of alcohol, stolen property, or other evidence of criminal wrongdoing. The search may be of the vehicle, of the driver, or of both the vehicle and the driver.

In 5% of the 16.8 million traffic stops documented in the 2002 national survey, police searched the driver, the vehicle, or both. The 5% represent approximately 838,000 drivers who were physically searched and/or had their vehicle searched by police. Of the nearly 838,000 searches, 28% were searches just of the vehicle, 19% were searches just of the driver, and 53% were searches of both the driver and the vehicle.

Driver gender

Police were more likely to conduct a search of the vehicle and/or the driver in traffic stops of males (7.1%) than of females (1.8%).

Driver race/Hispanic origin

Black (10.2%) and Hispanic (11.4%) motorists stopped by police were more likely than whites (3.5%) to be physically searched or have their vehicle searched.

Blacks were 11% of drivers stopped by police but 22.5% of drivers who were physically searched or whose vehicle was searched, and Hispanics were 9.5% of stopped drivers but 21.7% of those searched. Whites were 76.5% of stopped drivers and 54.1% of those who had some type of search.

Driver age

Drivers under the age of 40 had a greater likelihood than drivers age 40 or older of being frisked or having their vehicle searched. Drivers in the youngest three age categories — teenage drivers (8.9%), drivers in their twenties (6.6%), and drivers in their thirties (6.4%) — were all more likely than drivers in their forties (3.4%) and fifties (1.5%) to be physically searched or have their vehicle searched.

Searching the driver

Overall, 3.6% of stopped drivers were physically searched by police (table 9). Such body searches often involve the driver being frisked or lightly patted down by the officer. Sometimes, the search is more invasive, involving, for example, the officer's reaching into the driver's clothing.

Driver gender

Driver searches (as distinct from vehicle searches) were more common among male drivers (5.4%) than female drivers (0.9%).

Driver race/Hispanic origin

Black (8.1%) and Hispanic (8.3%) motorists stopped by police were more likely than white motorists (2.5%) to be subjected to a search of the driver.

Blacks were 11% of drivers stopped by police but 24.6% of drivers who were physically searched, and Hispanics were 9.5% of stopped drivers but 21.9% of those physically searched. Whites were 76.5% of stopped drivers and 52.5% of the ones who were physically searched.

Driver age

The younger the driver, the greater the likelihood of a search of the driver.

That is, where significant differences existed between younger and older drivers, they were always in the direction of a greater likelihood of younger drivers being physically searched. Drivers in their teens (6.1%), twenties (5.4%), and thirties (4.5%) were more likely than drivers in their forties (1.9%) to be frisked by police during a traffic stop in 2002.

Searching the vehicle

Police searched the vehicle in 4% of traffic stops (table 9).

Driver gender

Police were more likely to search a vehicle driven by a male (5.6%) than a female (1.6%).

Driver race/Hispanic origin

Police were more likely to search a vehicle driven by a black (7.1%) or Hispanic (10.1%) driver than by a white (2.9%) driver.

Blacks were 11% of drivers stopped by police but 19.6% of drivers whose vehicle was searched, and Hispanics were 9.5% of stopped drivers but 24% of drivers of searched vehicles. Whites were 76.5% of stopped drivers and 54.9% of those whose vehicle was searched.

Driver age

The younger the driver, the greater the likelihood of a vehicle search. More specifically, where significant differences existed between younger and older drivers, they were always in the direction of a greater likelihood of a vehicle search for the younger drivers. Vehicles driven by teenage drivers (8.2%) were more likely to be searched than vehicles driven by those in their twenties (5%), thirties (5%), forties (2.8%), or fifties (1.1%).

Searches and racial profiling

One definition of racial profiling is "using race as a key factor in deciding whether to make a traffic stop." Another definition is "using race as a key factor in deciding whether, during a traffic stop, to search the vehicle or the driver." Survey findings reported above indicated the following about the likelihood of searches and the race or Hispanic origin of the driver:

1. Black (10.2%) and Hispanic (11.4%) motorists stopped by police were more likely than whites (3.5%) to be physically searched or to have their vehicle searched.

2. Black (8.1%) and Hispanic (8.3%) motorists were more likely than white (2.5%) motorists to be subjected to a physical search of the driver.

3. Police were more likely to search a vehicle driven by a black (7.1%) or Hispanic (10.1%) than by a white (2.9%).

However, while the survey data can reveal these racial disparities, they cannot answer the question of whether the driver's race, rather than the driver's conduct or other specific circumstances surrounding the stop, was the reason for the search. The survey asked few questions about circumstances or driver conduct. For example, having drugs in plain view of police is a circumstance that would normally warrant a legal search of the vehicle. But since the survey did not ask drivers whether any drugs within plain view were in the vehicle, the analysis is necessarily limited.

Searches conducted by police during traffic stops

Of the estimated 837,800 searches conducted by police in 2002, more than half — 458,300 — were apparently justified because police had obtained the driver's consent prior to performing the search. The remaining 45% (379,500) of searches occurred without the driver's consent. The percentage of these 379,500 nonconsent searches that may or may not be justified depends on the specific circumstances of each search.

To determine how many of the 379,500 non-consent searches were potentially

justified, two circumstances that typically warrant a nonconsent search were investigated: 1) a search conducted after a person has been placed under arrest, and 2) a search conducted when police have probable cause to believe the suspect committed a crime. To determine the latter, a search was treated as a probable-cause search anytime a search uncovered evidence of criminal wrongdoing, such as drugs, an open container of alcohol or other evidence.

Analysis of the survey data indicated that 131,200 of the 379,500 non-consent searches were potentially justified. Of these 131,200 searches, 84,900 were searches conducted after the driver was arrested, and 46,300 were probable-cause searches that revealed evidence of a crime.

For the remaining 248,300 non-consent searches, the driver was not searched following an arrest and the search did not uncover evidence of criminal wrongdoing.

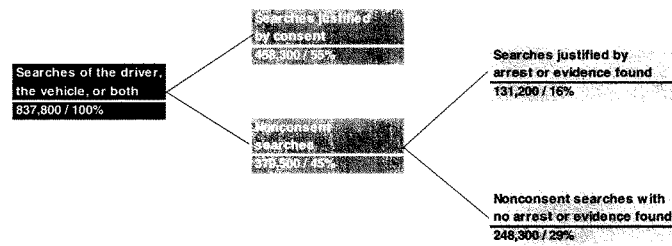


Figure 1

Table 10. Type of search of vehicle or driver and the outcome, 2002

	Search of --					
	Driver, vehicle, or both		Driver		Vehicle	
	Estimated number	Total	Estimated number	Total	Estimated number	Total
All searches	837,809	100%	609,278	100%	671,957	100%
Type of search						
With consent	458,338	54.7%	329,051	54.0%	413,226	61.5%
Without consent	379,471	45.3	280,227	46.0	258,730	38.5
Outcome of search						
Evidence found	98,394	11.7%	87,385	14.3%	96,739	14.4%
No evidence found	739,415	88.3	521,893	85.7	575,218	85.6

Note: Detail may not add to total because of rounding. A total of 447,009 drivers had both types of searches. For that reason the sum of the number of searches under the "driver" column and the number under the "vehicle" column is greater than the number under the "driver, vehicle, or both" column. Note also that some of the 447,009 drivers consented to one type of search but not the other. In those cases they were classified as a search "without consent" in the "driver, vehicle, or both" column.

Search of driver, vehicle, or both

Search with or without driver consent

In some jurisdictions an officer need not have any suspicion to ask for permission to conduct a search. In other jurisdictions police departments require that the officer have at least a "reasonable suspicion" before asking for permission to conduct a search. In all jurisdictions, if the officer has "probable cause" to believe that the person or the vehicle contains evidence of a crime, the officer does not need to ask for permission.

Of the 837,800 searches conducted during traffic stops in 2002, just over half, or about 458,300, were by consent (table 10). The 458,300 consent searches take one of two forms: 1) either the officer asked permission to search and the driver then granted it; or 2) the driver told the officer he/she could conduct a search without the officer first asking for permission. The remaining 45% of searches (379,500) were not by consent; either the officer had not asked permission before conducting the search, or the officer asked but the driver reported saying "no."

Likelihood of search finding criminal evidence

In 11.7% of the 837,800 searches, police found drugs, an illegal weapon, open containers of beer, or other evidence of a possible crime. The likelihood of finding criminal evidence was not significantly different between the 379,500 searches without consent (12.2%) and the 458,300 searches with consent (11.4%) (not shown in table).

Search of driver

Search with or without consent

Nearly half (46%) of all body searches were without the driver's consent, according to surveyed drivers.

Likelihood of search finding criminal evidence

Of the 609,300 physical searches, 86% found no criminal evidence, according to surveyed drivers.

The likelihood of finding criminal evidence was not significantly different between the 280,200 physical searches without consent (14.6%) and the 329,100 physical searches with consent (14.1%) (not shown in table).

Search of vehicle

Search with or without consent

More than a third of all vehicle searches (38.5%) were conducted without driver consent.

Likelihood of search finding criminal evidence

Approximately 86% of vehicle searches found no evidence of criminal wrongdoing, according to surveyed drivers.

Vehicle searches without consent (17.6%) were not significantly more likely than searches with consent (12.4%) to uncover evidence (not shown in table).

Small sample sizes

This report has presented separate statistics on each of four categories: physical searches with consent, physical searches without consent, vehicle searches with consent, and vehicle searches without consent. Within each of the four, it would be desirable to have comparative statistics by gender, race, and age — for example, for physical searches without consent finding criminal evidence, comparing white and black drivers. But such detailed estimates would be based on samples too small to form reliable statistical comparisons. Only by combining physical searches and vehicle searches can additional comparisons be made.

Searching the driver, vehicle, or both: Gender

Search with or without consent

The proportion of all searches (both physical and vehicle) that were without consent was not significantly different for males (46.4%) and females (38.6%) (table 11).

Likelihood of search finding criminal evidence

The proportion of searches yielding criminal evidence was not significantly different for males (10.5%) than for females (19.2%).

Searching the driver, vehicle, or both: Race/Hispanic origin

Search with or without consent

Searches (physical or vehicle) of black drivers (58.6%) were more likely to be without consent than searches of white drivers (39.1%).

The percentage of all physical or vehicle searches conducted without the driver's consent was not significantly greater for Hispanics (46.2%) than for whites (39.1%).

Likelihood of search finding criminal evidence

Searches of black drivers or their vehicles were less likely to find criminal evidence (3.3%) than searches of white drivers (14.5%), and somewhat less likely than searches of Hispanic drivers (13%).

Searching the driver, vehicle, or both: Age

Search with or without consent

Among drivers who were searched, those in their fifties (75.3%) were more

Table 11. Type and outcome of searches conducted by police during traffic stops, 2002

Demographic characteristic of searched driver	Search of the driver or the vehicle				
	All searches	Type of search		Outcome of search	
		With consent	Without consent	Evidence found	No evidence found
Total	100%	54.7%	45.3%	11.7%	88.3%
Gender					
Male	100%	53.6%	46.4%	10.5%	89.5%
Female	100	61.4	38.6	19.2*	80.8
Race/Hispanic origin					
White	100%	60.9%	39.1%	14.5%	85.5%
Black	100	41.4	58.6	3.3*	96.7
Hispanic	100	53.8	46.2	13.0*	87.0
Other race	100	51.9*	48.1*	26.5*	73.5*
Age					
16-19	100%	49.4%	50.6%	21.6%*	78.4%
20-29	100	60.2	39.8	11.6*	88.4
30-39	100	58.0	42.0	7.8*	92.2
40-49	100	47.6	52.4	4.6*	95.4
50-59	100	24.7*	75.3*	21.7*	78.3*
60 or older	—	—	—	—	—
Estimated number	837,809	458,338	379,471	98,394	739,415

Note: Detail may not add to total because of rounding.

*Estimate is based on 10 or fewer sample cases.

—No case in the sample.

likely to report a non-consent search than drivers in their twenties (39.8%) or thirties (42%). No other significant differences between age categories were found.

Likelihood of search finding criminal evidence

No comparisons are made between drivers of different ages because many of the samples on which the separate age categories are based are too small to form reliable estimates.

Searching the driver, the vehicle, or both; arresting stopped drivers

Survey data indicate that approximately 450,000 drivers were arrested after being pulled over by police in 2002. After an arrest is made, the police will often conduct a search of the arrestee. After an arrest is made during a traffic stop, the type of search conducted

could be a physical search of the driver, a search of the driver's vehicle, or both.

Of the nearly 450,000 drivers arrested during a traffic stop in 2002, three-quarters (74%), or slightly more than 329,000 drivers, also experienced a search of the driver, the vehicle, or both (table 12). An estimated 26% of these 329,000 searches were physical searches of the driver, 9% were vehicle searches, and 65% of drivers had both a physical and vehicle search conducted (not in a table).

Table 12. Among drivers arrested by police, percent searched, 2002

	Number	Percent
Total arrested	448,094	100%
Driver was searched	329,347	74%
Driver was not searched	118,746	26

Note: Detail may not add to total because of rounding. The 329,347 include searches of the driver, the vehicle, or both.

Table 13. Among drivers arrested and searched by police, percent of searches that occurred before or after the arrest, 2002

	Drivers searched and arrested	
	Number	Percent
Total	329,347	100%
Search occurred —		
Before arrest	137,421	42%
After arrest	191,926	58

Note: Detail may not add to total because of rounding. The 329,347 include searches of the driver, the vehicle or both.

Searches subsequent to arrest

In 2002, of the 329,000 drivers who were searched and arrested, 58% were searched after being arrested (table 13). Twenty-three percent of the 192,000 searches conducted subsequent to arrest were physical searches of the driver, 12% were vehicle searches, and 65% were searches of both the driver and the vehicle (not in a table).

The remaining 42% of drivers searched and arrested were searched before being arrested (table 13). Of these 137,000 drivers who were searched prior to their arrest, 17% were physically searched, 7% had their vehicle searched, and 76% had both a physical and vehicle search conducted (not in a table).

Search with or without consent

Among the 329,000 drivers searched and arrested in 2002, 144,000, or 43.7%, were searched without their consent (table 14).

Searches following an arrest (53%) were somewhat more likely than searches prior to arrest (30.9%) to be conducted without the driver's consent. This difference may be attributed to the common police practice of searching an arrestee and his or her belongings following an arrest; for those searches, police do not need to seek or obtain the driver's permission.

Likelihood of search finding criminal evidence

Evidence was found during a search of the driver, vehicle, or both for about a fifth of the 329,000 drivers who were searched and arrested in 2002 (table 14).

No comparisons of the likelihood of finding criminal evidence were made between drivers searched before an arrest and those searched after an arrest because the sample sizes for these categories were too small to form reliable estimates.

Table 14. Among drivers arrested and searched by police, type and outcome of searches, by whether the search occurred before or after the arrest, 2002

	All drivers searched and arrested	Search of the driver or the vehicle			
		Type of search		Outcome of search	
		With consent	Without consent	Evidence found	No evidence found
Total	100%	56.3%	43.7%	20.9%	79.1%
Search occurred —					
Before arrest	100%	69.1%	30.9%	26.9%*	73.1%
After arrest	100	47.0	53.0	16.5*	83.5
Total searched and arrested	329,347	185,481	143,865	68,819	260,527

Note: Detail may not add to total because of rounding.
*Estimate is based on 10 or fewer sample cases.

Police use of force

In the 2002 PPCS, respondents who said they had a face-to-face contact with police were then asked whether the police officer(s) used or threatened to use physical force against them during this contact.

In 2002 an estimated 664,500 persons age 16 or older had a contact with police in which force was used or threatened against them (table 15). This estimate is about 1.5% of the 45.3 million people reporting face-to-face police contact during 2002 (table 16). The estimate of 664,500 in 2002 represents an increase from 1999, when the PPCS that year estimated approximately 422,000 persons age 16 or older having a contact in which police used or threatened force. Also, the 2002 estimate of 1.5% experiencing the use or threat of force by police represents an increase from less than 1% (0.98%) in 1999.

About three-quarters (75.4%) of those experiencing force in 2002 felt the force used or threatened by the police was excessive (table 20).*

Among all persons who had a police contact in 2002, 52.8% were male. However, among those who reported that they were threatened with force or against whom force was used, 78.3% were male (table 15).

Persons age 16 to 29 were 33.6% of the estimated 45 million who had a police contact but 57.5% of those experiencing force during a contact. The median age of those experiencing force was 26.

Whites comprised 76.7% of all persons with a police contact, blacks 11%, and Hispanics 9.3%. About 56% of those

experiencing force were white, 26% black, and 15.5% Hispanic.

Likelihood of experiencing force*Gender*

Among persons 16 years or older with a face-to-face contact, females (0.7%) were less likely than males (2.2%) to have had a contact with police that resulted in force (table 16).

Race/Hispanic origin

Among those persons age 16 or older with a face-to-face contact, blacks (3.5%) and Hispanics (2.5%) were more likely than whites (1.1%) to have reported that the police used or threatened force against them.

*In this report "use of force" includes threat of force unless otherwise indicated.

Table 15. Demographic characteristics of residents age 16 or older whose contact involved police use of force in 2002

Demographic characteristic	Contacts with police in which force was used or threatened	
	Number	Percent
Total	664,458*	100%
Gender		
Male	520,178	78.3%
Female	144,281	21.7
Race/Hispanic origin		
White	373,847	56.3%
Black	172,658	26.0
Hispanic	102,670	15.5
Other race	15,284	2.3*
Age		
16-19	152,118	22.9%
20-29	230,028	34.6
30-39	116,774	17.6
40-49	95,285	14.3
50-59	49,717	7.5
60 or older	20,537	3.1*
Size of jurisdiction where resided		
Under 100,000	434,142	65.3%
100,000-499,999	112,213	16.9
500,000-999,999	54,489	8.2
1 million or more	63,614	9.6

Note: Detail may not sum to total because of rounding. See Appendix table for distribution of unweighted cases.

*Estimate based on 10 or fewer sample cases.

*The standard error of the estimate of the total number of persons reporting the use or threat of force is 50,658.

Table 16. Among residents age 16 or older who had contact with police in 2002, percent whose contact involved police use of force, by demographic characteristics of residents

Demographic characteristic	Number of persons with police contact	Contacts with police in which force was used or threatened	
		Number	Percent
Total	45,278,884	664,458	1.5%
Gender			
Male	23,884,649	520,178	2.2%
Female	21,394,234	144,281	0.7
Race/Hispanic origin			
White	34,743,452	373,847	1.1%
Black	4,966,388	172,658	3.5
Hispanic	4,191,712	102,670	2.5
Other race	1,377,332	15,284	1.1*
Age			
16-19	4,314,231	152,118	3.5%
20-29	10,917,693	230,028	2.1
30-39	9,745,298	116,774	1.2
40-49	9,494,716	95,285	1.0
50-59	6,006,828	49,717	0.8
60 or older	4,800,117	20,537	0.4*
Size of jurisdiction where resided			
Under 100,000	34,580,825	434,142	1.3%
100,000-499,999	6,763,356	112,213	1.7
500,000-999,999	1,818,598	54,489	3.0
1 million or more	2,116,106	63,614	3.0

Note: Detail may not sum to total because of rounding.

*Estimate based on 10 or fewer sample cases.

Age

Persons age 16 to 29 (2.5%) with police contact were more likely than those over age 29 (0.9%) to have had force used against them (not in table).

Reason for contact

Persons whose contact was police-initiated (such as a traffic stop) were more likely than those whose contact was not initiated by the police (such as asking police for assistance) to experience police use or threat of force (2.1% versus 0.6%) (table 17). Police-initiated contacts were 58.5% of the 45.3 million contacts in 2002 but 83.5% of the 664,500 contacts involving police force (table 18).

Persons whom police suspected of something or who had contact through a criminal investigation represented a relatively large percentage of the 664,500 force incidents, as compared to their representation of all persons with contact in 2002. Residents suspected of something by police accounted for a percentage of the force incidents (18.6%) that was 7 times higher than their portion of all contacts (2.6%). Persons whose contact occurred because of a criminal investigation accounted for a percentage of force incidents (13%) that was twice as high as their percentage of all contacts (5.8%).

Type of force used

Residents who experienced force or the threat force were asked to describe the type of force. An estimated 42% of the 664,500 force incidents involved the police pushing or grabbing the resident (table 19). An additional 8% of the force incidents involved the police kicking or hitting the resident.

Among those persons involved in a force-related incident, 18.9% had police

Table 17. Among residents age 16 or older who had contact with police in 2002, percent whose contact involved police use of force, by type of and reason for contact

	Number of persons with police contact	Contacts with police in which force was used or threatened	
		Number	Percent
Total	45,278,884	664,458	1.5%
Type of contact			
Police-initiated	26,483,794	555,129	2.1%
Not police-initiated*	18,795,090	109,330	0.6
Reason for contact			
Traffic accident	5,891,645	30,610	0.5%*
Driver during traffic stop	16,783,467	188,822	1.1
Passenger during traffic stop	1,218,470	35,279	2.9*
Reported crime or problem to police	11,959,548	68,008	0.6
Police provided assistance or service	3,264,503	17,925	0.5*
Police were investigating crime	2,615,255	86,480	3.3
Suspected of something by police	1,158,167	123,516	10.7
Other reason	2,387,628	113,818	4.8

Note: Detail may not sum to total because of rounding.

*Estimate based on 10 or fewer sample cases.

*Includes contact initiated by the resident or someone other than the police, such as a family member or acquaintance of the resident.

Table 18. Type of contact and reason for contact with police among residents age 16 or older whose contact involved police use of force in 2002

	Contacts with police in which force was used or threatened		Percent with police contact in 2002
	Number	Percent	
Total	664,458	100%	100%
Type of contact			
Police-initiated	555,129	83.5%	58.5%
Not police-initiated*	109,330	16.5	41.5
Reason for contact			
Traffic accident	30,610	4.6%*	13.0%
Driver during traffic stop	188,822	28.4	37.1
Passenger during traffic stop	35,279	5.3*	2.7
Reported crime or problem to police	68,008	10.2	26.4
Police provided assistance or service	17,925	2.7*	7.2
Police investigating crime	86,480	13.0	5.8
Suspected of something by police	123,516	18.6	2.6
Other reason	113,818	17.1	5.3

Note: Detail may not sum to total because of rounding.

*Estimate based on 10 or fewer sample cases.

*Includes contact initiated by the resident or someone other than the police, such as a family member or acquaintance of the resident.

Table 19. Type of force police used or threatened against residents age 16 or older during face-to-face contact in 2002

Type of force used or threatened by police	Contacts with police in which force was used or threatened	
	Number	Percent
Total	664,458	100%
Pushed or grabbed by officer(s)	277,433	41.8%
Kicked or hit by officer(s)	54,682	8.2
Officer(s) pointed gun at resident	125,872	18.9
Used or threatened to use any other force	377,628	56.8

Note: Detail may not sum to total because of rounding. Percents do not sum to 100 because some respondents reported more than one type of force or threat of force.

point a gun at them. Over half of the 664,500 residents experienced other types of force or threats, such as the threat to fire a gun or use chemical spray.

Amount of force

Residents involved in a force incident were asked if they felt any of the physical force used or threatened against them was excessive. Most (75.4%) of the 664,500 people involved in a police use-of-force incident thought the force used or threatened was excessive (table 20). Whites (71.6%) involved in force incidents were not more likely than blacks (77.7%) to say the force was excessive. Among Hispanics with force used against them, 84.6% felt it was excessive. The differences between estimates for whites (71.6%), blacks (77.7%), and Hispanics (84.6%) were not statistically significant.

Injuries from force

Overall, about 14% of the approximately 664,500 persons involved in a force or threat-of-force incident were injured as a result of the police action (table 21). Twelve percent of whites, 21.5% of Hispanics, and 15.4% of blacks in force incidents were injured. These differences were not statistically significant.

Characteristics of incident

More than half of those involved in a force or threat-of-force incident were physically searched or, if they were in a traffic stop, had their vehicle searched. About 7% of the persons with force reported that during the course of the force incident the police found possible evidence of a crime (such as drugs, an open alcohol container, or a weapon on or near them or in their vehicle after a traffic stop) (table 22).

Forty percent of the 664,500 persons involved in a contact with force had at least one charge filed against them —

Table 20. Among residents age 16 or older whose contact involved police use of force in 2002, percent who felt the force used or threatened was "excessive," by race/Hispanic origin of residents

Race/Hispanic origin of resident	Number of persons against whom force was used or threatened	Contacts with police in which force used or threatened was excessive	
		Number	Percent
Total	664,458	500,806	75.4%
White	373,847	267,864	71.6%
Black	172,658	134,075	77.7
Hispanic	102,670	86,908	84.6
Other race	15,284	12,159	79.6*

Note: Detail may not add to total because of rounding.
*Estimate based on 10 or fewer sample cases.

Table 21. Among residents age 16 or older whose contact involved police use of force in 2002, percent who were injured, by race/Hispanic origin of residents

Race/Hispanic origin of resident	Number of persons against whom force was used or threatened	Persons injured during contact in which force was used or threatened	
		Number	Percent
Total	664,458	92,268	13.9%
White	373,847	43,637	11.7%
Black	172,658	26,530	15.4*
Hispanic	102,670	22,101	21.5*
Other race	15,284	0	0*

Note: Detail may not sum to total because of rounding. Zero represents no cases in sample.
*Estimate based on 10 or fewer sample cases.

Table 22. Type of criminal evidence found on or near residents age 16 or older during contact that involved police use of force in 2002

Type of criminal evidence found	Contacts with police in which force was used or threatened	
	Number	Percent
Total	664,458	100%
Persons with any evidence found	43,309	6.5%
Weapons	19,580	2.9*
Drugs	15,316	2.3*
Open alcohol container(s)	10,491	1.6*
Other evidence of crime	10,633	1.6*

Note: Included are items found in the vehicles of stopped drivers. Respondents could report more than one item found in a search.
*Estimate based on 10 or fewer sample cases.

ranging from a traffic offense to possessing a weapon (table 23). A traffic-related offense was one of the most common charges (13.9%).

Table 23. Type of charge filed against residents age 16 or older whose contact involved police use of force in 2002

Type of offense charge	Contacts with police in which force was used or threatened	
	Number	Percent
Total	664,458	100%
Persons with at least one charge filed	262,342	39.5%
Assaulting an officer	6,311	0.9*
Resisting arrest	30,095	4.5
Drug offense	16,463	2.5*
Possession of a weapon	3,460	0.5*
Disorderly conduct	64,717	9.7
Traffic offense	92,159	13.9
Other charge	96,448	14.5

Note: Respondents could report more than one type of charge.
*Estimate based on 10 or fewer sample cases.

Ten percent were charged with disorderly conduct. About 5% were charged with resisting arrest, and 2.5% were charged with a drug offense.

Conduct of resident during force incident

Persons who had contact with police were asked about their behaviors during the encounter that could have provoked the officer(s) to use or threaten force. Among the 664,500 persons experiencing police use or threat of force, 1 in 4 self-reported that they argued with, cursed at, insulted, or verbally threatened the officer(s) (table 24). About 6% of those involved in a force incident resisted being handcuffed, arrested, or searched.

Other actions reported by persons experiencing police force included disobeying or interfering with the officer(s) (6%), trying to get away (3%), and fighting the police (0.5%).

There were too few cases of white, black, and Hispanic residents involved in a force incident to provide reliable estimates about their conduct during the police contact.

Conduct of resident and the likelihood that police used or threatened force

Persons who engaged in behavior that could have provoked police to use force were significantly more likely to experience the use or threat of force. Police used or threatened force against 1.1% of the 44.5 million persons who did not engage in behavior that could have provoked the officer(s) compared to:

- 23% of the estimated 706,000 persons who argued with, cursed at, insulted, or verbally threatened the police (table 25)
- 34% of those who disobeyed or interfered with the officer(s)
- 41% of those who tried to get away or escape
- 30% of persons who pushed, grabbed or hit the officer(s)

Table 24. Conduct of residents age 16 or older during contact that involved police use of force in 2002

Conduct of resident during contact	Contacts with police in which force was used or threatened	
	Number	Percent
Total	664,458	100%
Residents who engaged in at least one type of behavior	177,146	26.7%
Argue with, curse at, insult, or verbally threaten the police	161,057	24.2
Disobey or interfere with officer(s)	39,664	6.0
Try to get away from police	20,254	3.0*
Push, grab, or hit officer(s)	3,460	0.5*
Resist being handcuffed, arrested, or searched	38,651	5.8
Other physical behavior against police	3,071	0.5*

Note: Respondents could report more than one type of behavior.

*Estimate based on 10 or fewer sample cases.

Table 25. Among residents age 16 or older who had contact with police in 2002, percent whose contact involved police use of force, by conduct of residents during contact

Conduct of resident during contact	Number of persons with police contact	Contacts with police in which force was used or threatened	
		Number	Percent
Total	45,278,884	664,458	1.5%
Residents who engaged in at least one type of behavior	792,060	177,146	22.4%
Argue with, curse at, insult, or verbally threaten the police	706,156	161,057	22.8
Disobey or interfere with officer(s)	117,157	39,664	33.9
Try to get away from police	49,533	20,254	40.9*
Push, grab, or hit officer(s)	11,862	3,460	29.7*
Resist being handcuffed, arrested, or searched	56,575	38,651	68.3
Other physical behavior against police	11,235	3,071	27.3*
Residents who did not engage in any of the above behaviors	44,486,824	487,312	1.1%

Note: Respondents could report more than one type of behavior.

*Estimate based on 10 or fewer sample cases.

Table 26. Among residents age 16 or older whose contact involved police use of force in 2002, characteristics of force incident, by race/Hispanic origin of residents

Characteristic of force incident	Race/Hispanic origin of resident				
	Total	White	Black	Hispanic	Other race
Total	664,458	373,847	172,658	102,670	15,284
Person or vehicle searched	54.0%	46.0%	69.1%	58.1%	64.2%*
Handcuffed	43.7	41.1	46.9	47.5	45.1*
Arrested	37.6	33.5	42.8	42.5	45.1*
Resident felt officer(s) acted improperly	87.3	83.2	93.5	94.6	72.7*

Note: Detail may not add to total because of rounding.

*Estimate based on 10 or fewer sample cases.

- 68% of persons who resisted being handcuffed, arrested, or searched

- 27% of those who used some other physical behavior towards police.

Force and arrests

About 4 in 10 persons who had force used or threatened against them were arrested during the incident (table 26). Blacks (42.8%) and Hispanics (42.5%)

who experienced police force were not significantly more likely than whites (33.5%) to be arrested.

Force and handcuffing

Forty-four percent of the persons experiencing force were also handcuffed during the incident — including 41.1% of whites, 46.9% of blacks, and 47.5% of Hispanics. These differences were not statistically significant.

Resident opinion on whether police acted properly

The vast majority (87.3%) of the persons involved in police-use-of-force incidents felt the police acted improperly (table 26). There was some indication that blacks (93.5%) and Hispanics (94.6%) were more likely than whites (83.2%) to contend that the police acted improperly.

Although 87% of persons reporting police use of force felt that the police had acted improperly, less than 20% of the total (about 102,000) took formal action (table 27). Formal actions include filing a complaint or a lawsuit.

Selected responses to the 2002 PPCS question: "What force was excessive?... Describe briefly"

In 2002 about 501,000 of the 664,500 (75.4%) residents age 16 or older who experienced force felt the physical force used or threatened against them was excessive. Persons who characterized the force as "excessive" were asked to describe the type of force they considered excessive. The following are nine examples of what interviewers recorded:

- Fight was over and officer kept yelling at resident
- Forcing respondent's arms behind his back

- Grabbed and forced resident into back of police car
- Gun pointed at resident
- Handcuffs put on too tight
- Resident was running and police grabbed him by the arm and pushed him against a car
- Officers used insulting words and did not read resident his rights
- Officer pushed resident to the ground
- Verbal threat to slam respondent's head into a wall.

Table 27. Type of formal action taken against police by residents age 16 or older whose contact involved police use of force in 2002

	Persons taking action against police	
	Number	Percent
Total	101,600	100%
Filing complaint with —		
Civilian complaint review board	7,988	7.9*
Agency employing officer(s)	63,699	62.7
Local prosecutor	13,157	13.0*
Court	7,416	7.3*
Other government agency	10,162	10.0*
Other formal action	24,070	23.7*

Note: Percents do not sum to 100 because some respondents may have taken more than one type of formal action.

*Estimate based on 10 or fewer sample cases.

Methodology

The 2002 Police-Public Contact Survey (PPCS) was conducted as a supplement to the National Crime Victimization Survey (NCVS). During the last 6 months of 2002 in which interviews were conducted, the NCVS sample consisted of 93,410 individuals age 16 or older. Of these, 10,902, or 11%, were NCVS non-interviews, though someone else in the household was interviewed. In addition to those not interviewed for the NCVS, 2,261 persons either refused to participate in the PPCS or said they were not available for the interview or the interviewer failed to indicate the specific reason for not conducting the interview.

By far the most frequent reason for not completing the PPCS in 2002, accounting for 2,882 respondents, was the exclusion of the proxy interviews conducted for the NCVS when a person was unable, for physical, mental, or other reasons, to participate. BJS staff determined that caregivers and other proxy interviewees would have difficulty describing the details of any contacts between police and the sampled respondent. Another 455 non-English speaking respondents were also excluded from the 2002 PPCS.

The PPCS failed to interview 16,500 persons and interviewed 76,910; this translates into an 82% response rate for the PPCS, compared to an overall response rate of 87% for the NCVS. Among the PPCS interviews conducted, 25,993 (34%) were in person and 50,917 (66%) were by telephone.

The PPCS national sample, after adjustment for nonresponse, weights to a national estimate of 215,536,780 persons age 16 or older in 2002.

Appendix table. Number of survey respondents in the 2002 Police-Public Contact Survey, by demographic characteristics of resident

Demographic characteristic	All survey respondents	Number of persons with police contact	Number of persons against whom force was used or threatened
Total persons	76,910	15,731	209
Gender			
Male	35,049	7,892	158
Female	41,861	7,839	51
Race/Hispanic origin			
White	56,696	12,199	121
Black	8,101	1,492	46
Hispanic	8,929	1,542	37
Other race	3,184	496	5
Age			
16-19	4,455	1,180	41
20-29	11,721	3,407	69
30-39	15,059	3,605	42
40-49	15,805	3,376	30
50-59	12,683	2,322	18
60 or older	17,187	1,841	9
Size of jurisdiction where resided			
Under 100,000	57,167	11,810	138
100,000-499,999	11,331	2,462	34
500,000-999,999	3,111	683	16
1 million or more	5,301	776	21

Other information on survey methodology

Unless indicated otherwise, differences documented in this report were significant at the .05-level. Certain differences were not significant at the .05-level but were significant at the .10-level. The terms "some indication" and "somewhat more likely" refer to differences significant at the .10-level.

Regarding racial designations given in the report, "white" refers to non-Hispanic whites, "black" refers to non-Hispanic blacks, and "other races" refers to non-Hispanics in the "other races" category. White Hispanics, black Hispanics, and Hispanics of "other races" are categorized in the report under the heading "Hispanic."

Due to small samples and concerns about confidentiality, the report does not provide separate statistics on each racial category that makes up "other races" (Asians, Pacific Islanders, American Indians, Native Hawaiians, and Alaska Natives).

NOTICE - We are conducting this survey under the authority of Title 13, United States Code, Section 8. Section 9 of this law requires us to keep all information about you and your household strictly **confidential**. We may use this information only for statistical purposes. Also, Title 42, Section 3732, United States Code, authorizes the Bureau of Justice Statistics, Department of Justice, to collect information using this survey. Title 42, Sections 3789g and 3735, United States Code, also requires us to keep all information about you and your household strictly confidential.

ASK OF ALL NCVS SELF-INTERVIEWED PERSONS AGE 16+

PRA Burden Statement - We estimate that it will take between 2 to 10 minutes to complete this interview. If you have any comments regarding these estimates or any other aspect of this survey, send them to the Senior Statistician, Research and Public Policy Issues, Bureau of Justice Statistics, Washington, DC 20531. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number.

Sample Control number
PSU Segment CK Serial
J

FORM **PPCS-1**
(9-10-2002)

DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. CENSUS BUREAU
ACTING AS COLLECTING AGENT FOR THE
BUREAU OF JUSTICE STATISTICS
U.S. DEPARTMENT OF JUSTICE

POLICE PUBLIC CONTACT SURVEY

**SUPPLEMENT TO THE
NATIONAL CRIME
VICTIMIZATION SURVEY
2002**

A. Field Representative's Code		B. Respondent's characteristics		Last name	
				First name	
Line no.	Sex	Age	Race	Hispanic Origin	
001	002	003	004	005	006
	1 <input type="checkbox"/> M 2 <input type="checkbox"/> F		1 <input type="checkbox"/> White 2 <input type="checkbox"/> Black 3 <input type="checkbox"/> American Indian, Aleut, Eskimo 4 <input type="checkbox"/> Asian, Pacific Islander 5 <input type="checkbox"/> Other	1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	

FIELD REPRESENTATIVE - Complete a PPCS-1 form for all NCVS interviewed persons age 16+. Do NOT complete a PPCS-1 form for NCVS Type Z noninterview persons, NCVS proxy interviews, or persons in Type A households.

C. Type of PPCS interview
007 1 ☐ Personal (Self)
2 ☐ Telephone (Self) } **SKIP to INTRO 1**
3 ☐ Noninterview - **FILL ITEM D**
A proxy interview is unacceptable for the PPCS.

D. Reason for PPCS noninterview
008 1 ☐ Refused PPCS only
2 ☐ Not available for PPCS only
3 ☐ Non-English speaking respondent only

FIELD REPRESENTATIVE - Read introduction.

INTRO 1 - Shortly, I will be asking you some additional questions about any contacts you may have had with the police during the last 12 months. However, before I get to these questions, I have some questions about your use of a motor vehicle.

1. How often do you usually drive? Is it ... (Read answer categories)	009	1 <input type="checkbox"/> Almost every day? 2 <input type="checkbox"/> A few days a week? 3 <input type="checkbox"/> A few days a month? 4 <input type="checkbox"/> A few times a year? 5 <input type="checkbox"/> Never? - ASK item 2	} SKIP to INTRO 2
2. Even though you never drive, do you have a driver's license?	010	1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No	

FIELD REPRESENTATIVE - Read introduction.

INTRO 2 - The next series of questions is about any contacts you may have had with the police during the last 12 months. Exclude contacts with private security guards, police officers you see socially, or relatives who are police officers. Also, exclude any police contacts that occurred because your employment or volunteer work brought you into regular contact with police officers.

3a. Did you have any contact with a police officer during the last 12 months, that is, any time since 1, 2001?	011	1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No - SKIP to Check Item D
3b. Were any of these contacts with a police officer in person, that is, face-to-face?	012	1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No - SKIP to Check Item D
3c. Did you have more than one face-to-face contact?	013	1 <input type="checkbox"/> Yes - ASK item 3d 2 <input type="checkbox"/> No - SKIP to item 4
3d. How many face-to-face contacts with a police officer did you have during the last 12 months?	014	_____ Number of contacts - Read INTRO 3

FIELD REPRESENTATIVE – Read introduction.

INTRO 3 – For the rest of the interview, please tell me ONLY about the most recent face-to-face contact you had with the police.

4. Was this contact initiated by the police?	015	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
5a. During this contact, did the police USE or THREATEN TO USE force against you for any reason?	016	<input type="checkbox"/> Yes – ASK item 5b <input type="checkbox"/> No <input type="checkbox"/> Don't know } SKIP to item 6
5b. Did the police officer(s)...	017	<input type="checkbox"/> Actually push or grab you?
(Read answer categories.)	018	<input type="checkbox"/> Actually kick or hit you?
Mark (X) all that apply.	019	<input type="checkbox"/> Actually point a gun at you?
	020	<input type="checkbox"/> Use or threaten to use any other force against you? – Specify <u> </u>
5c. Do you feel any of the force used or threatened against you was excessive?	021	<input type="checkbox"/> Yes <input type="checkbox"/> No – SKIP to item 5e
5d. What force was excessive?	022	Describe briefly <u> </u> <u> </u> <u> </u> <u> </u>
5e. Were you injured as a result of any force used against you?	023	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. During this contact were you arrested?	024	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
7. During this contact were you handcuffed?	025	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
8. At any time during this contact, did you argue with, curse at, insult, or verbally threaten the police?	026	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
9. At any time during this contact, did you... (Read answer categories 1–5.)	027	<input type="checkbox"/> Disobey or interfere with the officer(s)?
Mark (X) all that apply.	028	<input type="checkbox"/> Try to get away?
	029	<input type="checkbox"/> Push, grab, or hit the police officer(s)?
	030	<input type="checkbox"/> Resist being handcuffed, arrested, or searched?
	031	<input type="checkbox"/> Physically do anything else? – Specify <u> </u>
	032	<input type="checkbox"/> None of the above
10. Did this contact occur during a traffic ACCIDENT?	033	<input type="checkbox"/> Yes – SKIP to Check Item A <input type="checkbox"/> No
11a. Did this contact occur during a traffic STOP?	034	<input type="checkbox"/> Yes <input type="checkbox"/> No – SKIP to item 12
11b. Were you the driver or passenger of the vehicle that was stopped?	035	<input type="checkbox"/> Driver – SKIP to item 19 <input type="checkbox"/> Passenger – SKIP to Check Item A
12. Did this contact occur because you reported a crime or some other problem to the police?	036	<input type="checkbox"/> Yes – SKIP to Check Item A <input type="checkbox"/> No
13. Did this contact occur because the police were providing some sort of service or assistance to you?	037	<input type="checkbox"/> Yes – SKIP to Check Item A <input type="checkbox"/> No
14. Did this contact occur because the police were investigating a crime?	038	<input type="checkbox"/> Yes – SKIP to Check item A <input type="checkbox"/> No
15. Did this contact occur because the police suspected you of something?	039	<input type="checkbox"/> Yes – SKIP to Check item A <input type="checkbox"/> No

16. What was the reason for this contact?	<div style="border: 1px solid black; padding: 2px;">040</div> Describe briefly z <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 15px; margin-top: 5px;"></div>
<div style="background-color: black; color: white; padding: 2px; font-weight: bold;">CHECK ITEM A</div> Was force used or threatened against the respondent? Is box 1 marked in item 5a?	<div style="border: 1px solid black; padding: 2px;">041</div> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes – SKIP to item 35 on page 5 2 <input type="checkbox"/> No – ASK item 17 </div>
17. Looking back on this contact, do you feel the police behaved properly or improperly?	<div style="border: 1px solid black; padding: 2px;">042</div> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Properly – SKIP to Check Item D 2 <input type="checkbox"/> Improperly – ASK item 18a </div> <div style="display: flex; justify-content: space-between;"> 3 <input type="checkbox"/> Don't know – SKIP to Check Item D </div>
18a. Did you take any formal action, such as filing a complaint or lawsuit against the police?	<div style="border: 1px solid black; padding: 2px;">043</div> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes – ASK item 18b 2 <input type="checkbox"/> No </div> <div style="display: flex; justify-content: space-between;"> 3 <input type="checkbox"/> Don't know } SKIP to Check Item D </div>
18b. With whom did you file a complaint or lawsuit? Mark (X) all that apply.	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <div style="border: 1px solid black; padding: 2px;">044</div> 1 <input type="checkbox"/> Civilian Complaint Review Board <div style="border: 1px solid black; padding: 2px;">045</div> 2 <input type="checkbox"/> Law enforcement agency employing the officer(s) <div style="border: 1px solid black; padding: 2px;">046</div> 3 <input type="checkbox"/> Local prosecutor <div style="border: 1px solid black; padding: 2px;">047</div> 4 <input type="checkbox"/> Court <div style="border: 1px solid black; padding: 2px;">048</div> 5 <input type="checkbox"/> Some other government agency <div style="border: 1px solid black; padding: 2px;">049</div> 6 <input type="checkbox"/> Other – Specify z </div> <div style="width: 5%; text-align: center;"> <div style="border: 1px solid black; padding: 2px;">044</div> <div style="border: 1px solid black; padding: 2px;">045</div> <div style="border: 1px solid black; padding: 2px;">046</div> <div style="border: 1px solid black; padding: 2px;">047</div> <div style="border: 1px solid black; padding: 2px;">048</div> <div style="border: 1px solid black; padding: 2px;">049</div> </div> <div style="width: 50%; font-size: 2em; line-height: 1;"> SKIP to Check Item D </div> </div>
19. Did the traffic stop occur at night?	<div style="border: 1px solid black; padding: 2px;">050</div> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know </div>
20. How many officers were present? Record actual number.	<div style="border: 1px solid black; padding: 2px;">051</div> _____ Number of police officers
21. (Was/Were) the police officer(s) White, Black, or some other race? Mark (X) all that apply.	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <div style="border: 1px solid black; padding: 2px;">052</div> 1 <input type="checkbox"/> White <div style="border: 1px solid black; padding: 2px;">053</div> 2 <input type="checkbox"/> Black <div style="border: 1px solid black; padding: 2px;">054</div> 3 <input type="checkbox"/> Some other race <div style="border: 1px solid black; padding: 2px;">055</div> 4 <input type="checkbox"/> Don't know race of any/some </div> <div style="width: 5%; text-align: center;"> <div style="border: 1px solid black; padding: 2px;">052</div> <div style="border: 1px solid black; padding: 2px;">053</div> <div style="border: 1px solid black; padding: 2px;">054</div> <div style="border: 1px solid black; padding: 2px;">055</div> </div> </div>
22. If only one box is marked in item 21, SKIP to item 23. What race were most of the officers?	<div style="border: 1px solid black; padding: 2px;">056</div> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Mostly White 2 <input type="checkbox"/> Mostly Black </div> <div style="display: flex; justify-content: space-between;"> 3 <input type="checkbox"/> Mostly some other race 4 <input type="checkbox"/> Equal number of each race </div> <div style="display: flex; justify-content: space-between;"> 5 <input type="checkbox"/> Don't know </div>
23. At any time during this traffic stop, did the police officer(s)... (READ CATEGORIES.)	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> a. ASK PERMISSION to search the vehicle? <div style="border: 1px solid black; padding: 2px;">057</div> </div> <div style="width: 5%; text-align: center;"> <div style="border: 1px solid black; padding: 2px;">057</div> </div> <div style="width: 50%;"> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know </div> </div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> b. ASK PERMISSION to search you, frisk you, or pat you down? <div style="border: 1px solid black; padding: 2px;">058</div> </div> <div style="width: 5%; text-align: center;"> <div style="border: 1px solid black; padding: 2px;">058</div> </div> <div style="width: 50%;"> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know </div> </div> </div>
24. Whether or not the police officer(s) asked for PERMISSION, at any time during this traffic stop did you GIVE the police officer(s)... (READ CATEGORIES.)	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> a. PERMISSION to search the vehicle? <div style="border: 1px solid black; padding: 2px;">059</div> </div> <div style="width: 5%; text-align: center;"> <div style="border: 1px solid black; padding: 2px;">059</div> </div> <div style="width: 50%;"> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know </div> </div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> b. PERMISSION to search you, frisk you, or pat you down? <div style="border: 1px solid black; padding: 2px;">060</div> </div> <div style="width: 5%; text-align: center;"> <div style="border: 1px solid black; padding: 2px;">060</div> </div> <div style="width: 50%;"> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know </div> </div> </div>
25a. Did the police officer(s)... (READ CATEGORIES.)	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> a. Search the vehicle? <div style="border: 1px solid black; padding: 2px;">061</div> </div> <div style="width: 5%; text-align: center;"> <div style="border: 1px solid black; padding: 2px;">061</div> </div> <div style="width: 50%;"> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know </div> </div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> b. Search you, frisk you, or pat you down? <div style="border: 1px solid black; padding: 2px;">062</div> </div> <div style="width: 5%; text-align: center;"> <div style="border: 1px solid black; padding: 2px;">062</div> </div> <div style="width: 50%;"> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know </div> </div> </div>
<div style="background-color: black; color: white; padding: 2px; font-weight: bold;">CHECK ITEM B</div> Did the police officer(s) search the vehicle OR the respondent? Is box 1 marked in item 25a, categories a OR b?	<div style="border: 1px solid black; padding: 2px;">063</div> <div style="display: flex; justify-content: space-between;"> 1 <input type="checkbox"/> Yes – ASK item 25b 2 <input type="checkbox"/> No – SKIP to item 27 </div>

25b. Did the police officer(s) find any of the following items during (this search/these searches)? <i>(Read answer categories 1-4.)</i> <i>Mark (X) all that apply.</i>	064 <input type="checkbox"/> Illegal weapons? 065 <input type="checkbox"/> Illegal drugs? 066 <input type="checkbox"/> Open containers of alcohol, such as beer or liquor? 067 <input type="checkbox"/> Other evidence of a crime? - Specify _____ 068 <input type="checkbox"/> None of the above
CHECK ITEM C Was the respondent arrested? Is box 1 marked in item 6?	069 <input type="checkbox"/> Yes - ASK item 26 <input type="checkbox"/> No - SKIP to item 27
26. Earlier you said that you were arrested and you or your vehicle were searched. Did the search occur before you were arrested?	070 <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
27. Did the police officer(s) give a reason for stopping the vehicle?	071 <input type="checkbox"/> Yes - ASK item 28a <input type="checkbox"/> No <input type="checkbox"/> Don't know } SKIP to item 30
28a. Was the reason speeding?	072 <input type="checkbox"/> Yes - SKIP to item 29 <input type="checkbox"/> No
28b. A vehicle defect?	073 <input type="checkbox"/> Yes - SKIP to item 29 <input type="checkbox"/> No
28c. A record check?	074 <input type="checkbox"/> Yes - SKIP to item 29 <input type="checkbox"/> No
28d. A roadside check for drunk drivers?	075 <input type="checkbox"/> Yes - SKIP to item 29 <input type="checkbox"/> No
28e. A seatbelt violation?	076 <input type="checkbox"/> Yes - SKIP to item 29 <input type="checkbox"/> No
28f. An illegal turn or illegal lane change?	077 <input type="checkbox"/> Yes - SKIP to item 29 <input type="checkbox"/> No
28g. A stop sign or stop light violation?	078 <input type="checkbox"/> Yes - SKIP to item 29 <input type="checkbox"/> No
28h. Was there some other reason?	079 <input type="checkbox"/> Yes - Specify _____ <input type="checkbox"/> No
29. Would you say that the police officer(s) had a legitimate reason for stopping you?	080 <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know
30. During this contact were you... (Read answer categories 1-2.) <i>Mark (X) all that apply.</i>	081 <input type="checkbox"/> Given a warning? 082 <input type="checkbox"/> Given a traffic ticket? 083 <input type="checkbox"/> None of the above
31. Were you charged with a non-traffic offense?	084 <input type="checkbox"/> Yes - ASK item 32 <input type="checkbox"/> No <input type="checkbox"/> Don't know } SKIP to item 33
32. Were you charged with... (Read answer categories.) <i>Mark (X) all that apply.</i>	085 <input type="checkbox"/> Assaulting a police officer? 086 <input type="checkbox"/> Resisting arrest? 087 <input type="checkbox"/> A drug offense? 088 <input type="checkbox"/> Possession of a firearm or concealed weapon? 089 <input type="checkbox"/> Disorderly conduct? 090 <input type="checkbox"/> Some other offense? - Specify _____
33. Looking back on this contact, do you feel the police behaved properly or improperly?	091 <input type="checkbox"/> Properly - SKIP to Check Item D <input type="checkbox"/> Improperly - ASK item 34a <input type="checkbox"/> Don't know - SKIP to Check Item D

34a. Did you take any formal action, such as filing a complaint or lawsuit against the police?	092 1 <input type="checkbox"/> Yes - ASK item 34b 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know } SKIP to Check Item D
34b. With whom did you file a complaint or lawsuit? <i>Mark (X) all that apply.</i>	093 1 <input type="checkbox"/> Civilian Complaint Review Board 094 2 <input type="checkbox"/> Law enforcement agency employing the officer(s) 095 3 <input type="checkbox"/> Local prosecutor 096 4 <input type="checkbox"/> Court 097 5 <input type="checkbox"/> Some other government agency 098 6 <input type="checkbox"/> Other - Specify <u> </u> SKIP to Check Item D
35. At any time during this contact, did the police officer(s) ASK PERMISSION to search you, frisk you, or pat you down?	099 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know
36. Whether or not the police officer(s) asked for PERMISSION, at any time during this contact did you GIVE the police officer(s) PERMISSION to search you, frisk you, or pat you down?	100 1 <input type="checkbox"/> Yes 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know
37a. Did the police officer(s) actually search you, frisk you, or pat you down?	101 1 <input type="checkbox"/> Yes - ASK item 37b 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know } SKIP to item 38a
37b. Did the police officer(s) find any of the following items on or near you? <i>(Read answer categories 1-4.)</i> <i>Mark (X) all that apply.</i>	102 1 <input type="checkbox"/> Illegal weapons? 103 2 <input type="checkbox"/> Illegal drugs? 104 3 <input type="checkbox"/> Open containers of alcohol, such as beer or liquor? 105 4 <input type="checkbox"/> Other evidence of a crime? - Specify <u> </u> 106 5 <input type="checkbox"/> None of the above
38a. During this contact, were you charged with any offenses?	107 1 <input type="checkbox"/> Yes - ASK item 38b 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know } SKIP to item 39
38b. Were you charged with . . . <i>(Read answer categories.)</i> <i>Mark (X) all that apply.</i>	108 1 <input type="checkbox"/> Assaulting a police officer? 109 2 <input type="checkbox"/> Resisting arrest? 110 3 <input type="checkbox"/> A drug offense? 111 4 <input type="checkbox"/> Possession of a firearm or concealed weapon? 112 5 <input type="checkbox"/> Disorderly conduct or public drunkenness? 113 6 <input type="checkbox"/> Some other offense - Specify <u> </u>
39. Looking back on this contact, do you feel the police behaved properly or improperly?	114 1 <input type="checkbox"/> Properly - SKIP to Check Item D 2 <input type="checkbox"/> Improperly - ASK item 40a 3 <input type="checkbox"/> Don't know - SKIP to Check Item D
40a. Did you take any formal action, such as filing a complaint or lawsuit against the police?	115 1 <input type="checkbox"/> Yes - ASK item 40b 2 <input type="checkbox"/> No 3 <input type="checkbox"/> Don't know } SKIP to Check Item D
40b. With whom did you file a complaint or lawsuit? <i>Mark (X) all that apply.</i>	116 1 <input type="checkbox"/> Civilian Complaint Review Board 117 2 <input type="checkbox"/> Law enforcement agency employing the officer(s) 118 3 <input type="checkbox"/> Local prosecutor 119 4 <input type="checkbox"/> Court 120 5 <input type="checkbox"/> Some other government agency 121 6 <input type="checkbox"/> Other - Specify <u> </u>
CHECK ITEM D Is this the last household member to be interviewed?	122 1 <input type="checkbox"/> Yes - END SUPPLEMENT 2 <input type="checkbox"/> No - Interview next household member